

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

PREAMBLE

1. Sections Affected

R7-2-601
R7-2-602
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Rulemaking Action

Amend
Repeal
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2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §15-203(A)

Implementing statute: A.R.S. §15-203(A)(14)

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening, 6 A.A.R. 1439, April 14, 2000

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4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Corinne L. Velasquez, Executive Director

Address: State Board of Education
1535 West Jefferson, Room 418
Phoenix, Arizona 85007

Telephone: (602) 542-5057

Fax: (602) 542-3046

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The State Board of Education is proposing to amend R7-2-601 through R7-2-617, related to certification. The amendments will focus on recommendations from school and district personnel addressing recruitment of out-of-state teachers, renewal requirements and proficiency assessments. The amendments will also include technical changes recommended by the staff.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

None

8. The preliminary summary of the economic, small business and consumer impact:

There is no proposed economic impact on consumers or small business. The establishment of an alternative certificate and reciprocity for out-of-state certificates will impact the schools and school districts by increasing the pool of available teachers.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business and consumer impact statement:

Name: Corinne L. Velasquez, Executive Director

Address: State Board of Education
1535 West Jefferson, Room 418
Phoenix, Arizona 85007

Telephone: (602) 542-5057

Fax: (602) 542-3046

10. The time, place and nature of the proceedings for the adoption, amendment, or repeal of the rules, if no proceeding is scheduled, when, where, and how persons may request an oral proceeding on the proposed rules:

An oral proceeding on the proposed rulemaking is scheduled as follows:

Date: November 27, 2000

Time: 1:30 p.m.

Location: State Board of Education
1535 West Jefferson, Room 417
Phoenix, Arizona 85007

Written comments may be submitted on or before 5:00 p.m. on November 8, 2000, to the contact person listed in item #9.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 6. CERTIFICATION

Sections

R7-2-601.	Definitions
R7-2-602.	Professional Preparation Programs
R7-2-603.	Proficiency Assessments
R7-2-604.	General Certification Provisions
R7-2-605.	Duties of the Director of Certification
<u>R7-2-605.</u>	<u>Reciprocity</u>
R7-2-606.	Elementary Teaching Certificates
R7-2-607.	Secondary Teaching Certificates
R7-2-608.	Elementary Teaching Certificates
<u>R7-2-608.</u>	<u>Alternative Certificates</u>
R7-2-609.	Special Education Teaching Certificates
R7-2-610.	Vocational Education Teaching Certificates
R7-2-611.	Other Teaching Certificates
R7-2-612.	Endorsements
R7-2-613.	Administrative Certificates
R7-2-614.	Other Professional Certificates
R7-2-615.	Fees
R7-2-616.	Renewal Requirements

ARTICLE 6. CERTIFICATION

R7-2-601. Definitions

In this Article, the following definitions apply unless the context otherwise requires:

1. "Accredited institution" means ~~+~~ an institution which is listed as accredited in the current American Association of Collegiate Registrars and Admissions Officers Report. An institution based outside the United States shall be considered accredited if an approved foreign document evaluation firm declares it to be comparable to an accredited American institution.
2. "Board" means the State Board of Education.
3. "Department" means the Arizona Department of Education.
- ~~4. "Paraeducator" means an individual trained to perform certain specialized tasks in the occupation of education.~~
- ~~5. "Paratherapist" means an individual trained to perform certain specialized tasks in the occupation of habilitation.~~
4. "Mentoring" means that trained mentors will be paired with the teacher to provide coaching and guidance and assist in the implementation of theoretical knowledge and pedagogically sound practices. Mentors should have a minimum of five years of teaching experience and be recommended by both their peers and their immediate supervisor.
- ~~65.~~ "Practicum" means a period of structured observation and practice of the skills being learned, supervised by an individual trained in that area. The commonly used terms "student teaching," "internship," "residency," or "observation course" are included in this definition.
- ~~76.~~ "Professional development" means training to increase skills related to the occupation of education.
- ~~87.~~ "Teaching experience" means full-time employment which included full responsibility for the planning and delivery of instruction and evaluation of student learning. Substitute teaching is not included in this definition.

~~R7-2-602.~~ Professional Teaching Standards

- ~~A. The standards presented in this section shall be the basis for approved teacher preparation programs, described in R7-2-604, and the Arizona Teacher Proficiency Assessment, described in R7-2-606.~~
- B. Standard 1: The teacher designs and plans instruction that develops students' abilities to meet Arizona's academic standards and the district's assessment plan. The performance assessment shall measure the extent to which the teacher's planning:**
- ~~1. Focuses instruction on Arizona's academic standards;~~
 - ~~2. Focuses instruction on the school and district's academic standards;~~
 - ~~3. Aligns curriculum with the student assessments;~~

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4. Addresses any physical, mental, social, cultural, and community differences among learners;
 5. Addresses prior knowledge of individual and group performance;
 6. Indicates short and long term curriculum goals;
 7. Includes appropriate use of a variety of methods, materials, and resources;
 8. Includes learning experiences that are developmentally appropriate for learners;
 9. Includes learning experiences that address a variety of cognitive levels;
 10. Includes learning experiences that are appropriate for curriculum goals;
 11. Includes learning experiences that are based upon principles of effective instruction;
 12. Includes learning experiences that accurately represent content; and
 13. Incorporates appropriate assessment of student progress.
- C.** Standard 2: The teacher creates and maintains a learning climate that supports the development of students' abilities to meet Arizona's academic standards. The performance assessment shall measure the extent to which the teacher:
1. Establishes and maintains standards of mutual respect;
 2. Displays effective classroom management;
 3. Encourages the student to demonstrate self-discipline and responsibility to self and others;
 4. Respects the individual differences among learners;
 5. Facilitates people working productively and cooperatively with each other;
 6. Provides a motivating learning environment;
 7. Promotes appropriate classroom participation;
 8. Listens thoughtfully and responsively;
 9. Organizes materials, equipment, and other resources appropriately; and
 10. Applies to daily practice the ethics of the profession.
- D.** Standard 3: The teacher implements and manages instruction that develops students' abilities to meet Arizona's academic standards. The performance assessment shall measure the extent to which the teacher:
1. Appropriately implements a teacher-designed lesson plan;
 2. Communicates to students specific standards and high expectations for learning;
 3. Links learning with students' prior knowledge, experiences, and background;
 4. Models the skills, concepts, attributes, or thinking processes to be learned;
 5. Demonstrates effective written and oral communication;
 6. Uses appropriate language to communicate with learners clearly and accurately;
 7. Uses strategies that are appropriate to students' developmental levels;
 8. Incorporates strategies which address the diverse needs of learners, and demonstrate multicultural sensitivity;
 9. Encourages critical thinking;
 10. Connects lesson content to real life situations when appropriate;
 11. Uses technology and a variety of instructional resources appropriately;
 12. Uses a variety of effective teaching strategies to engage students actively in learning;
 13. Maximizes the amount of class time students are engaged in learning which result in a high level of success for students;
 14. Provides opportunities for students to use and practice what is learned; and
 15. Adjusts instruction based on feedback from students.
- E.** Standard 4: The teacher assesses learning and communicates results to students, parents and other professionals with respect to students' abilities to meet Arizona's academic standards. The performance assessment shall measure the extent to which the teacher:
1. Promotes student self-assessment;
 2. Uses a variety of appropriate formal and informal assessments aligned with instruction;
 3. Maintains records of student work and performance and uses them to guide instructional decisions;
 4. Offers students and parents appropriate feedback on progress toward learning expectations;
 5. Maintains privacy of student records and performance.
- F.** Standard 5: The teacher collaborates with colleagues, parents, the community and other agencies to design, implement, and support learning programs that develop students' abilities to meet Arizona's academic standards and to transition from school to work or post-secondary education. The performance assessment shall measure the extent to which the teacher:
1. Works with parents to enhance student learning at home and school;
 2. Collaborates with other professionals and agencies to improve the overall learning environment for students;
 3. Accesses community resources and services to foster student learning;
 4. Demonstrates productive leadership and team membership skills that facilitate the development of mutually beneficial goals; and
 5. Collaborates with colleagues to achieve school and district goals.

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- G.** Standard 6: The teacher reviews and evaluates his or her overall performance and implements a professional development plan. The performance assessment shall measure the extent to which the teacher:
1. Reviews his or her practices and evaluates the influences of those practices on student growth and learning;
 2. Designs and continually adapts a professional development plan for improving instruction and student learning;
 3. Engages in activities that implement the professional development plan;
 4. Uses employer's documentation of his or her performance to develop a professional development plan; and
 5. Pursues professional activities to support development as a learner and a teacher.
- H.** Standard 7: The teacher has general academic knowledge as demonstrated by the attainment of a bachelor's degree. The teacher also has specific academic knowledge in his or her subject area or areas sufficient to develop student knowledge and performance to meet Arizona academic standards. The subject knowledge assessment shall measure the extent to which the teacher has knowledge of:
1. Skills and concepts related to the subject areas;
 - a. At the elementary level, the teacher demonstrates knowledge of language arts and reading, math, science, social studies, and fine arts.
 - b. At the secondary level, the teacher demonstrates knowledge of the subject area or areas he or she is being certified to teach.
 2. Major facts and assumptions that are central to the discipline;
 3. Debates and the processes of inquiry that are central to the discipline;
 4. Integration of disciplinary knowledge with other subject areas; and
 5. Connections between knowledge of the subject areas and real life situations at the level of the students being taught.
- I.** Standard 8: The teacher demonstrates current professional knowledge sufficient to effectively design and plan instruction, implement and manage instruction, create and maintain an appropriate learning environment, and assess student learning. The professional knowledge assessment shall measure the extent to which the teacher has knowledge of:
1. A variety of methods for teaching language arts and reading, math, science, social studies, and fine arts at the elementary level or a variety of methods for teaching reading and the subject area or areas in which the teacher is seeking certification at the secondary level;
 2. Interdisciplinary learning experiences that integrate knowledge, skills, and methods of inquiry from several subject areas;
 3. Principles and techniques associated with various instructional strategies;
 4. Learning theories, subject matter, curriculum development, and student development and how to use this knowledge in planning instruction to meet curriculum goals;
 5. Methods for recognizing and accommodating exceptional children;
 6. Influences of individual development, experiences, talents, prior learning, language, culture, gender, family, and community on student learning;
 7. Principles of human motivation and behavior and their implications for managing the classroom and organizing individual and group work;
 8. Effective evaluation of curriculum materials and resources for accuracy, comprehensiveness, and usefulness for representing particular ideas and concepts;
 9. The characteristics, uses, advantages, and limitations of different types of assessments for evaluating how students learn, determining what they know and are able to do, and identifying what experiences will support their further growth and development;
 10. Measurement theory, interpretation of test results, and assessment-related issues, such as validity, reliability, bias, and scoring;
 11. Services and resources to meet the needs of exceptional children and how to access the services and resources;
 12. Schools as organizations within the larger community context and the operations of the relevant aspects of the educational system; and
 13. Laws and ethics related to student, parent, and teacher rights and responsibilities.
- J.** Standard 9: In collaboration with other professionals and parents, the special education teacher participates in the design, implementation, and assessment of individualized education programs. The performance assessment shall measure the extent to which the special education teacher:
1. Demonstrates knowledge of disabilities and their educational implications;
 2. Demonstrates knowledge of state and federal special education laws, rules and regulations;
 3. Demonstrates knowledge of and the ability to use a variety of assistive devices that support student learning;
 4. Applies specialized diagnostic and assessment procedures to assist in determining special education eligibility for all areas of suspected disability;
 5. Assists in the design and implementation of individualized education programs through diagnostic teaching, instructional adaptations, and individual behavior management techniques; and
 6. Utilizes paraeducators and paratherapists effectively through training and supervision.

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R7-2-603. Professional Administrative Standards

- A.** The standards presented in this section shall be the basis for approved administrative preparation programs, described in R7-2-604. The Arizona Administrator Proficiency Assessment shall assess proficiency in the standards as a requirement for certification of supervisors, principals, and superintendents, as set forth in R7-2-614.
- B.** Standard 1: The administrator facilitates the development, articulation, implementation, and management of an organization's mission. The performance assessment shall measure the extent to which the administrator:
1. Develops a mission statement for the organization;
 2. Promotes support for and fulfillment of the organization's mission;
 3. Provides purpose and direction for individuals and groups within the organization;
 4. Demonstrates a knowledge of educational issues and how they affect students, schools, and the community;
 5. Facilitates the development of strategic action plans, and goals in cooperation with the community;
 6. Sets priorities in the context of community, student, faculty and staff needs;
 7. Serves as an articulate spokesperson for the welfare of all students in a diverse community;
 8. Describes the role of education in a democratic society within an historical context;
 9. Uses documentation of his or her performance to design and continually update a professional development plan; and
 10. Develops, implements, and monitors changes to the organization's mission to improve student achievement.
- C.** Standard 2: The administrator facilitates the success of all students by understanding, responding to, and influencing the social, cultural, and legal aspects of the community. The performance assessment shall measure the extent to which the administrator:
1. Develops procedures for defining mutual expectations;
 2. Develops working relationships and strategies for formulating and implementing organizational policy and funding practices;
 3. Adjusts local policy to state and federal requirements;
 4. Develops procedures to recognize potential civil and criminal liabilities;
 5. Develops procedures to provide for equal educational opportunities in educational programs;
 6. Promotes the importance of understanding and appreciating the diversity in the community;
 7. Applies strategies for addressing international issues affecting teaching and learning; and
 8. Works effectively with policy makers.
- D.** Standard 3: The administrator implements positive and proactive communication strategies for effective parent and community involvement to improve the learning environment for all students. The performance assessment shall measure the extent to which the administrator:
1. Articulates organizational purpose and priorities to the community and news media;
 2. Requests and responds to community feedback;
 3. Demonstrates consensus building and conflict mediation;
 4. Formulates and implements plans for internal and external communications;
 5. Uses communications skills to strengthen community support;
 6. Develops support for organizational priorities; and
 7. Responds appropriately to the electronic and printed news media.
- E.** Standard 4: The administrator effectively manages services, programs, operations, and resources. The performance assessment shall measure the extent to which the administrator:
1. Demonstrates a knowledge and uses a variety of theories and models of organizations and of the principles of organizational development;
 2. Defines and uses effective processes for gathering, analyzing, and using data for decision making;
 3. Identifies, frames, and solves problems;
 4. Identifies priorities and formulates plans of action to meet internal and external expectations;
 5. Demonstrates project and time management skills;
 6. Establishes procedures to regulate activities and projects;
 7. Delegates at appropriate organizational levels;
 8. Secures, allocates and manages human and material resources;
 9. Utilizes staff evaluation and staff development systems to improve the performance of staff members;
 10. Applies adult motivation research to select appropriate models for supervision of the organization;
 11. Demonstrates understanding of employee benefits and alternative employee benefits packages;
 12. Identifies the potential legal issues affecting school personnel selection, development, supervision, retention, and dismissal;
 13. Demonstrates knowledge of student services and programs for which students may be categorically eligible;
 14. Evaluates and promotes improved organizational morale;
 15. Demonstrates knowledge of social agencies and services available in the community;
 16. Promotes a safe and effective learning environment; and
 17. Applies to daily practice the ethical conduct of the profession.

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- F. Standard 5:** The administrator advocates and supports curricular and instructional programs which promote the success of students. The performance assessment shall measure the extent to which the administrator:
1. ~~Demonstrates knowledge of curriculum design;~~
 2. ~~Develops a strategic plan that enhances teaching and learning;~~
 3. ~~Plans curriculum which anticipates occupational trends and their educational implications;~~
 4. ~~Demonstrates understanding of instructional objectives using theories of cognitive development;~~
 5. ~~Demonstrates a knowledge of alignment and sequence of curriculum which promotes student achievement;~~
 6. ~~Demonstrates knowledge of valid and reliable performance indicators and testing procedures to measure student achievement;~~
 7. ~~Demonstrates knowledge of assessment strategies to help students achieve at high levels;~~
 8. ~~Utilizes current technologies which support management and instructional functions;~~
 9. ~~Exhibits knowledge of an instructional management system that includes research findings on learning, motivation, instructional strategies, instructional time, and resources to maximize student achievement;~~
 10. ~~Demonstrates knowledge of research findings on the use of a variety of instructional strategies that include multicultural sensitivity and various learning styles;~~
 11. ~~Implements programs to help students develop as caring and informed citizens; and~~
 12. ~~Describes and applies legal requirements affecting student supervision.~~

~~R7-2-604~~ R7-2-602. Professional Preparation Programs

- A.** The Board shall evaluate and may approve the professional preparation programs of institutions in Arizona which request Board approval.
- B.** Teacher preparation institutions may include, but are not limited to, universities and colleges, school districts, professional organizations, private businesses including non-profit corporations, charter schools, and regional training centers. At a minimum, the teacher preparation program shall include training in the Arizona Teacher Standards ~~standards described in R7-2-602~~ and a practicum which provides students in the program opportunities to observe and practice the standards under the supervision of certified teachers.
- C.** The administrative preparation program shall include training in the Arizona Administrator Standards ~~standards described in R7-2-603~~ and a practicum which provides students in the program opportunities to observe and practice the standards under the supervision of certified administrators.
- D.** Those institutions with Board approval shall provide, publicly, a statement of the type of approval the program has and for what period of time.
- E.** Board-approved programs shall provide their program graduates with an institutional recommendation form for issuance of the appropriate Arizona certification. Institutional recommendations shall be on a form provided by the Certification Unit ~~Department~~.
- F.** Conditional approval may be granted for a 2 year period based on evaluation of the program. Representatives of the Department or the Board may conduct a site visit as part of the evaluation. The factors to be considered during the evaluation of the program are:
1. The written description of the unit that is primarily responsible for the preparation of teachers and other professional education personnel. The following documentation is required:
 - ~~ea.~~ a. The unit's statement of mission, purpose, and goals;
 - ~~ab.~~ b. A listing of all programs designed to lead to certification of education personnel;
 - ~~bc.~~ c. A program summary that includes the number of students and graduates by program for the prior year and the projected number of students by program for the next year;
 - d. A listing of all part-time and full-time faculty in each program and their qualifications;
 - e. A description of criteria and policy for employment of part-time and full-time faculty;
 - f. ~~Number of full-time and part-time faculty in each program; and~~
 - ~~g. A listing of any other programs related to education not designed to lead to certification.~~
 2. ~~For~~ From the dean, director, or chair who is officially designated to represent the unit and assigned the authority and responsibility for its overall administration and operation, the following documentation is required:
 - a. A job description; and
 - b. A chart depicting administrative and organizational structure of the unit.
 3. The written policies and procedures for the operations of the unit.
 4. The unit's procedures for admission to all programs leading to certification. The following documentation is required:
 - a. The criteria for admission;
 - b. A list of basic skills that are assessed and the measures used to assess them;
 - c. The plan for remediation of basic skills deficiencies in students admitted to the program; and
 - d. A summary report of assessment results for students admitted for the past 3 years.
 5. The process by which the unit regularly monitors and evaluates its operation, its scope, the quality of its offerings, and effectiveness of its program. The following documentation is required:

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- a. The policies for conducting ongoing evaluations;
 - b. A summary of the findings of internal evaluations completed within the past 3 years;
 - c. A summary of the findings of external evaluations completed within the past 3 years, including follow-up studies of graduates; and
 - d. A summary of program modifications made as a result of internal and external evaluations.
6. The process by which the unit assesses the academic and professional competency of each student upon completion of the program. The following documentation is required:
- a. A listing of assessments used to evaluate academic and professional competency of students; and
 - b. A summary report of competency assessment outcomes for the past 3 years.
7. The unit's curricula for teacher preparation, based on the Arizona Teacher Standards ~~professional standards described in R7-2-602~~ and the Arizona Academic Standards for students ~~academic standards described in R7-2-301 and R7-2-302~~, and curricula for administrative preparation, based on the Arizona Administrator Standards ~~professional standards described in R7-2-603~~. The following documentation is required:
- a. A listing of program requirements including the number of credit or clock hours required;
 - b. The course syllabus and objectives for each course with reference to the specific standards addressed; and
 - c. A description of the opportunities for observation and practice of the standards.
- G.** Full program approval may be granted by the Board for a 2 year period based on the following conditions:
1. An assurance that the elements documented for conditional approval are substantially unchanged or that a description of all changes has been provided for evaluation. Representatives of the Department or the Board may conduct a site visit as part of the evaluation. The following documentation is required:
 - a. A description of any changes in the unit's structure, mission statement, purpose, goals, full-time faculty, admissions criteria and policies or procedures since the last Board approval;
 - b. A summary of the findings of internal evaluations completed within the past 2 years;
 - c. A summary of the findings of external evaluations completed within the past 2 years, which includes follow-up studies of graduates;
 - d. A summary of recent program modifications made as a result of internal and external evaluations within the last 2 years; and
 - e. If any changes to the standards have been adopted since the program's last Board approval, a description of changes to the curriculum.
 2. That at least 75% of the program graduates from the prior 2 years successfully completed the professional knowledge portion of the Arizona Teacher Proficiency Assessment on their first attempt.
 3. If at least 60%, but less than 75% of the program graduates successfully completed the professional knowledge portion of the Arizona Teacher Proficiency Assessment on their first attempt, conditional approval of the program may be extended for 1 year upon approval by the Board of an improvement plan.
 4. When an applicant has attended more than 1 institution to complete a professional preparation program, performance on the proficiency assessment shall be attributed to the institution where a practicum was successfully completed.

~~R7-2-605.~~ Duties of the Director of Certification

~~The Superintendent of Public Instruction or the Superintendent's designee shall be responsible for:~~

- ~~1. The issuance of the appropriate certificates based on the applicant's compliance with the statutes and rules; and~~
- ~~2. The approval of foreign transcript translation and evaluation agencies.~~

~~R7-2-606~~ R7-2-603. Proficiency Assessments

- A.** The Arizona Teacher Proficiency Assessment is adopted as the proficiency assessment for applicants for teaching certificates. The Arizona Administrator Proficiency Assessment is adopted as the proficiency assessment for applicants for administrative certificates.
- B.** The Arizona Teacher Proficiency Assessment shall assess proficiency in the Arizona Teacher Standards as adopted by the Board. The Arizona Teacher Proficiency Assessment shall include, at a minimum, professional knowledge and subject knowledge.
- C.** The Arizona Administrator Proficiency Assessment shall assess proficiency in the Arizona Administrator Standards as adopted by the Board. The Arizona Administrator Proficiency Assessment shall include, at a minimum, a professional knowledge component.
- B.** ~~The subject knowledge portion of the Arizona Teacher Proficiency Assessment shall assess proficiency in the as described in R7-2-602(H) as a requirement for certification of elementary and secondary teachers and in R7-2-602(H) and R7-2-602(J) as a requirement for certification of special education teachers.~~
- C.** ~~The professional knowledge portion of the Arizona Teacher Proficiency Assessment shall assess proficiency as described in R7-2-602(I) as a requirement for certification of elementary, secondary, special education, and vocational teachers.~~

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- ~~D.~~ The performance portion of the Arizona Teacher Proficiency Assessment shall assess proficiency as described in R7-2-602(B), R7-2-602(C), R7-2-602(D), R7-2-602(E), R7-2-602(F), and R7-2-602(G) as a requirement for certification of elementary, secondary, and special education teachers.
- ~~E.~~ The Arizona Administrator Proficiency Assessment shall assess professional knowledge and performance as described in R7-2-603 as a requirement for certification of administrators, supervisors, principals, and superintendents.
- ~~FD.~~ The passing score for each assessment shall be determined by the Board using the results of validity and reliability studies. The passing score for each assessment shall be reviewed by the Board at least every 3 years.
- ~~GE.~~ The proficiency assessments for professional knowledge and subject knowledge shall be administered at least 6 times each calendar year, at times and places determined by the ~~Department~~ Board.
- ~~HF.~~ The provisional elementary, secondary, or special education certificate allows the beginning teacher up to 4 semesters or 2 school years of teaching experience before completing the performance assessment portion of the Arizona Teacher Proficiency Assessment.
- ~~1.~~ If a performance assessment has not been adopted by the Board prior to the expiration date of an individual's provisional certificate, the provisional certificate shall be converted to a standard certificate upon verification of 4 semesters or 2 school years of teaching experience.
 - ~~2.~~ If a performance assessment is adopted by the Board prior to the expiration of an individual's provisional certificate, the provisional certificate shall be renewed one time to allow for a full two-year period to complete the performance assessment.
 - ~~13.~~ If the teacher has not been employed in a teaching position for 4 semesters or 2 school years, the provisional certificate may shall, upon the written request of the holder, be renewed one time, extended once for the equivalent of the time the teacher was not employed during the provisional certification period.
 - ~~2.~~ If the teacher has been employed for 4 semesters or 2 school years but has not successfully completed the performance assessment, the certificate shall be extended once, for 1 year, upon the written request of the holder.
- ~~I.~~ If the provisionally certified teacher has not successfully completed the performance assessment by the expiration date on the extended certificate pursuant to (H)(1) or (H)(2) of this section, the individual may reapply for a provisional certificate after 1 year, upon verification of the following:
- ~~1.~~ Efforts to remediate deficiencies identified in the performance assessment;
 - ~~2.~~ Passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment taken in the past year; and
 - ~~3.~~ Completion of the requirements for the provisional certificate which are in effect at the time of reapplication.

~~R7-2-607~~ **R7-2-604. General Certification Provisions**

- ~~A.~~ The evaluation to determine qualification for certification shall not begin until an institutional recommendation or application for certification, ~~and~~ official documentation, transcripts indicating the required degree, and the appropriate fees have been received by the Certification Unit ~~Department~~. Course descriptions, verification of employment, and other documents may also be required for the evaluation.
- ~~B.~~ The effective date of a new certificate shall be the date the evaluation is completed by the Certification Unit ~~Department~~. The effective date of a renewed certificate shall be the date the evaluation for renewal is completed by the Certification Unit ~~Department~~.
- ~~C.~~ All 1-year certificates shall expire 1 year from the date of issuance. All 2-year certificates shall expire 2 years from the date of issuance. All renewable certificates issued for more than 1 year shall expire on the holder's birth date in the year of expiration. Endorsements shall expire on the same date as the teaching certificate to which it is posted.
- ~~D.~~ If an applicant has not met all the requirements for the certificate or endorsement at the time of evaluation, the applicant shall have a maximum of 2 years to complete those requirements and request reevaluation. One reevaluation shall be provided at no additional fee within 2 years of the original evaluation.
- ~~E.~~ Only those degrees awarded by an accredited institution shall be considered to satisfy the requirements for certification. Degrees awarded by an accredited institution which are higher than the requirement established may be used to satisfy the requirements for certification.
- ~~F.~~ Professional preparation programs, courses, practica, and examinations required for certification shall be taken at an accredited institution or a Board-approved teacher preparation program.
- ~~G.~~ Only those courses in which the applicant received a passing grade or credit shall be considered to satisfy the requirements for certification.
- ~~H.~~ All certificates issued by the Board before the effective date of this Article are considered to have been issued in conformance with these rules.
- ~~I.~~ The Board shall issue a comparable Arizona certificate, if ~~+~~ one has been established pursuant to this Chapter by ~~R7-2-608, R7-2-609, R7-2-610, or R7-2-611,~~ and shall waive the requirements for passing ~~the professional knowledge and performance portions of~~ the Arizona Teacher Proficiency Assessment, to an applicant who holds current certification from the National Board for Professional Teaching Standards.

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- J.** Teachers in grades ~~7~~ 9 through 12 whose primary assignment is in an academic subject required pursuant to R7-2-302 shall demonstrate proficiency by passing the appropriate subject area portion of the Arizona Teacher Proficiency Assessment. The subject areas of demonstrated proficiency shall be specified on the certificate. If a proficiency assessment is not offered in a subject area, an approved area shall consist of a minimum of 24 semester hours of courses in the subject.
- K.** Teachers of homebound students shall hold the same certificate that is required of a public school classroom teacher.
- L.** Verification of experience shall be submitted in written form on official letterhead of the school or school district under the signature of the Superintendent, Chief Executive Officer, Personnel Director or designee.
- ~~KM.~~** Class 1 and Class 2 fingerprint clearance cards shall be issued by the Arizona Department of Public Safety.

R7-2-605. Reciprocity

The Board shall issue a comparable Arizona provisional certificate, if one is established pursuant to this Chapter, to an applicant who holds a valid certificate from another state and possesses a Bachelor's or higher degree from an accredited institution.

- A.** Certificates shall be valid for 1 year and are nonrenewable.
- B.** The applicant shall possess a valid Class 1 or Class 2 fingerprint clearance card. Applicants who were fingerprinted in another state with substantially similar criminal history or teacher fingerprinting requirements shall be required to provide documentation that an application for a fingerprint clearance card has been submitted to the Arizona Department of Public Safety. "Substantially similar" criminal history or teacher fingerprinting requirements shall be determined by the Investigations Unit and shall, at a minimum, include local law enforcement and FBI checks.
- C.** The deficiencies allowed pursuant to Arizona Revised Statutes in Arizona Constitution, United States Constitution, and a passing score on all required portions of the Arizona Teacher Proficiency Assessment shall be satisfied prior to the issuance of any other certificate prescribed in this Chapter, except as noted below:
- (1) The professional knowledge portion of the Arizona Teacher Proficiency Assessment shall be waived for applicants with 3 years of verified teaching experience. The 3 years of verified teaching experience shall have been during the last valid period of the certificate produced from the other state.
 - (2) The subject knowledge portion of the Arizona Teacher Proficiency Assessment shall be waived for applicants who hold a Master's degree or higher in the subject area to be taught.
 - (3) The professional knowledge and subject knowledge portions of the Arizona Teacher Proficiency Assessment shall be waived for applicants who hold a current certificate from the National Board for Professional Teaching Standards.

~~R7-2-608~~ R7-2-606. Elementary Teaching Certificates

- A.** Except as noted, this certificate is ~~all certificates are~~ subject to the general certification provisions in ~~R7-2-607~~ R7-2-604 and the renewal requirements in ~~R7-2-616~~ R7-2-617.
- B.** Provisional Elementary Certificate -- grades K-8
1. The certificate is valid for 2 years and is not renewable. This certificate is required for all individuals serving in a teaching capacity in grades K-8. This certificate is not required for an individual serving in a teaching capacity in grades 7-8 if the individual possesses a valid Secondary Certificate.
 2. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in elementary education from an accredited institution or a Board-approved teacher preparation program, ~~described in R7-2-604~~; or
 - ii. Forty-five semester hours of education courses ~~which teach the knowledge and skills described in R7-2-602~~, including at least 8 semester hours of practicum in grades K-8. Two years of verified teaching experience in grades Prekindergarten-8 may be substituted for the 8 semester hours of practicum; or
 - iii. A valid elementary certificate from another state.
 - c. A passing score on the elementary professional knowledge portion and the elementary subject knowledge portion of the Arizona Teacher Proficiency Assessment; and
 - d. ~~A passing score on the elementary education subject knowledge portion of the Arizona Teacher Proficiency Assessment.~~
 - ed. A valid Class 1 or Class 2 fingerprint clearance card.
- C.** Standard Elementary Certificate -- grades K-8
1. The certificate is valid for 6 years.
 2. The requirements are:
 - a. Qualification for the provisional elementary certificate;
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment if adopted by the Board, or 2 years of verified teaching experience, as specified in R7-2-603;
 - c. A valid Class 1 or Class 2 fingerprint clearance card; and

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- d. Forty-five hours or 3 semester hours of instruction in research-based systematic phonics. An accredited institution or other provider may provide this instruction.

~~R7-2-609~~ R7-2-607. Secondary Teaching Certificates

- A. Except as noted, this certificate is ~~all certificates are~~ subject to the general certification provisions in ~~R7-2-604~~ ~~R7-2-607~~ and the renewal requirements in ~~R7-2-616~~ ~~R7-2-617~~.
- B. Provisional Secondary Certificate -- grades 7-12
 - 1. The certificate is valid for 2 years and is not renewable. This certificate is required for all individuals serving in a teaching capacity in grades 7-12. This certificate is not required for an individual serving in a teaching capacity in grades 7-8 if the individual possesses a valid Elementary Certificate.
 - 2. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in secondary education from an accredited institution or a Board-approved teacher preparation program, ~~described in R7-2-604~~; or
 - ii. Thirty semester hours of education courses ~~which teach the knowledge and skills described in R7-2-602~~, including at least 8 semester hours of practicum in grades 7-12. Two years of verified teaching experience in grades 7-postsecondary may substitute for the 8 semester hours of practicum; or
 - iii. A valid secondary certificate from another state.
 - c. A passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the secondary professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid Class 1 or Class 2 fingerprint clearance card.
- C. Standard Secondary Certificate -- grades 7-12
 - 1. The certificate is valid for 6 years.
 - 2. The requirements are:
 - a. Qualification for the provisional secondary certificate;
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment if adopted by the Board, or 2 years of verified teaching experience, as specified in R7-2-603; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.

R7-2-608. Alternative Certificates

- A. Except as noted, this certificate is subject to the general certification provisions in R7-2-604.
- B. Alternative Provisional Elementary Certificate – grades K-8.
 - 1. The certificate is valid for 2 years and is not renewable. An individual is not eligible to hold this certificate more than one time. This certificate shall allow an individual to serve in a teaching capacity in grades K-8, in a mentoring program and under the supervision of college and certified onsite school personnel.
 - 2. The requirements are:
 - a. A Bachelor's or more advanced degree;
 - b. A passing score on the elementary subject knowledge portion of the Arizona Teacher Proficiency Assessment; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
 - 3. An Alternative Provisional Elementary Certificate may be converted to a Standard Elementary Certificate. The requirements are:
 - a. Application for a Standard Elementary Certificate shall be made prior to the expiration date of the Alternative Provisional Elementary Certificate.
 - b. Verification of 2 complete school years of full time teaching experience in a mentoring program and under the supervision of college and certified onsite school personnel. The 2 years of teaching experience shall have been from within the same school district.
 - c. A passing score on the elementary professional knowledge portion of the Arizona Teacher Proficiency Assessment.
- C. Alternative Provisional Secondary Certificate – grades 9-12.
 - 1. The certificate is valid for 2 years and is not renewable. An individual is not eligible to hold this certificate more than one time. This certificate shall allow an individual to serve in a teaching capacity in grades 9-12, in a mentoring program and under the supervision of college and certified onsite school personnel.
 - 2. The requirements are:
 - a. A Bachelor's or more advanced degree in the subject to be taught; or
 - b. A Bachelor's or more advanced degree and a passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment in the subject to be taught; and

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- c. A valid Class 1 or Class 2 fingerprint clearance card.
- 3. An Alternative Provisional Secondary Certificate may be converted to a Standard Secondary Certificate. The requirements are:
 - a. Application for a Standard Secondary Certificate shall be made prior to the expiration date of the Alternative Provisional Secondary Certificate.
 - b. Verification of 2 complete school years of full time teaching experience in a mentoring program and under the supervision of college and certified onsite school personnel. The 2 years of teaching experience shall have been from within the same school district.
 - c. A passing score on the secondary professional knowledge portion of the Arizona Teacher Proficiency Assessment.

~~R7-2-610~~ R7-2-609. Special Education Teaching Certificates

- A. Except as noted, all certificates are subject to the general certification provisions in ~~R7-2-604~~ ~~R7-2-607~~ and the renewal requirements in ~~R7-2-616~~ ~~R7-2-617~~.
- B. Terms used in this Section are defined in A.R.S. §15-761.
- C. Provisional Cross-Categorical Special Education Certificate -- grades K-12
 - 1. The certificate is valid for 2 years and is not renewable.
 - 2. The holder is qualified to teach students with mild to moderate mental retardation, emotional disability, specific learning disability, orthopedic impairments and other health impairments.
- 32. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in special education from an accredited institution, which included courses representing 3 of the 5 following areas: in mental retardation, emotional disability, specific learning disability, orthopedic impairments and other health impairments; or
 - ii. Forty-five semester hours of education courses ~~which teach the standards described in R7-2-602~~, including 21 semester hours of special education courses and 8 semester hours of practicum with students representing at least 3 of the 5 disability areas. Special education courses shall include survey of exceptional students; teaching methodologies and strategies for students with disabilities; foundations course in mild to moderate mental retardation, learning disability, emotional disabilities, and physical/health impairment; and diagnosis and assessment of mild disabilities. Two years of verified teaching experience in special education representing 3 of the 5 areas specified in subparagraph (b)(i), in grades K-12 may substitute for the 8 semester hours of practicum; or
 - iii. A valid cross-categorical special education certificate from another state.
 - c. A passing score on the elementary professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the cross-categorical special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid Class 1 or Class 2 fingerprint clearance card.
- D. Standard Cross-Categorical Special Education Certificate -- grades K-12
 - 1. The certificate is valid for 6 years.
 - 2. The holder is qualified to teach students with mild to moderate mental retardation, emotional disability, specific learning disability, orthopedic impairments and other health impairments.
 - 3. The requirements are:
 - a. Qualification for the provisional cross-categorical Special Education certificate; and
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment if adopted by the Board, or 2 years of verified teaching experience, as specified in R7-2-603.
- E. Provisional Specialized Special Education Certificate -- grades K-12
 - 1. The certificate is valid for 2 years and is not renewable.
 - 2. The holder is qualified to teach students with mental retardation, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
 - 3. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in the specified area of special education from an accredited institution; or

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- ii. Forty-five semester hours of education courses ~~which teach the knowledge and skills described in R7-2-602,~~ including 21 semester hours of special education courses and 8 semester hours of practicum in the designated area of disability. Special education courses shall include survey of exceptional students; teaching methodologies for students with disabilities; foundations of instruction in the designated area of disability; and diagnosis and assessment of disabilities. Two years of verified teaching experience in the area of disability in grades K-12 may be substituted for the 8 semester hours of practicum; or
 - iii. A valid special education certificate in the specified area from another state.
 - c. A passing score on the elementary professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the specified disability special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid Class 1 or Class 2 fingerprint clearance card.
- F. Standard Specialized Special Education Certificate -- grades K-12**
- 1. The certificate is valid for 6 years.
 - 2. The holder is qualified to teach students with mental retardation, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
 - 3. The requirements are:
 - a. Qualification for the provisional Special Education certificate;
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment if adopted by the Board, or 2 years of verified teaching experience, as specified in R7-2-603; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
- G. Provisional Severely and Profoundly Disabled Certificate -- grades K-12**
- 1. The certificate is valid for 2 years and is not renewable.
 - 2. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in severely and profoundly disabled education from an accredited institution; or
 - ii. Forty-five semester hours of education courses ~~which teach the knowledge and skills described in R7-2-602,~~ including 21 semester hours of special education courses and 8 semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with severe and profound disabilities, foundations of instruction of students with severe and profound disabilities, and diagnostic and assessment procedures for students with severe and profound disabilities. Two years of verified teaching experience with students in grades Prekindergarten-12 who are severely and profoundly disabled may be substituted for the 8 semester hours of practicum; or
 - iii. A valid Severely and Profoundly Disabled certificate from another state.
 - c. A passing score on the elementary professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the severely and profoundly disabled special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid Class 1 or Class 2 fingerprint clearance card.
- H. Standard Severely and Profoundly Disabled Certificate -- grades K-12**
- 1. The certificate is valid for 6 years.
 - 2. The requirements are:
 - a. Qualification for the provisional severely and profoundly disabled certificate;
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment if adopted by the Board, or 2 years of verified teaching experience, as specified in R7-2-603; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
- I. Provisional Hearing Impaired Certificate -- grades K-12**
- 1. The certificate is valid for 2 years and is not renewable.
 - 2. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in hearing impaired education from an accredited institution;
or

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- ii. Forty-five semester hours of education courses ~~which teach the knowledge and skills described in R7-2-602,~~ including 21 semester hours of special education courses for the hearing impaired and 8 semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with hearing impairment, foundations of instruction of students with hearing impairment, and diagnostic and assessment procedures for the hearing impaired. Two years of verified teaching experience in the area of hearing impaired in grades Prekindergarten-12 may be substituted for the 8 semester hours of practicum; or
 - iii. A valid hearing impaired certificate from another state.
 - c. A passing score on the elementary professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the hearing impaired special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid Class 1 or Class 2 fingerprint clearance card.
- J. Standard Hearing Impaired Certificate -- grades K-12**
- 1. The certificate is valid for 6 years.
 - 2. The requirements are:
 - a. Qualification for the provisional hearing impaired certificate;
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment if adopted by the Board, or 2 years of verified teaching experience, as specified in R7-2-603; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
- K. Provisional Visually Impaired Certificate -- grades K-12**
- 1. The certificate is valid for 2 years and is not renewable.
 - 2. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in visual impairment from an accredited institution; or
 - ii. Forty-five semester hours of education courses ~~which teach the knowledge and skills described in R7-2-602,~~ including 21 semester hours of special education courses for the visually impaired and 8 semester hours of practicum. Special education courses shall include introduction to orientation and mobility; Grade 2 literary Braille, Nemeth code Braille and methods for teaching braille; anatomy, physiology and function of the eye; and assessment of vision and educational abilities ~~survey of exceptional students, teaching methodologies for students with visual impairment, foundations of instruction of students with visual impairment, and diagnostic and assessment procedures for the visually impaired.~~ Two years of verified teaching experience in the area of visually impaired in grades Prekindergarten-12 may be substituted for the 8 semester hours of practicum; or
 - iii. A valid visually impaired special education certificate from another state.
 - c. A passing score on the elementary professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the visually impaired special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid Class 1 or Class 2 fingerprint clearance card.
- L. Standard Visually Impaired Certificate -- grades K-12**
- 1. The certificate is valid for 6 years.
 - 2. The requirements are:
 - a. Qualifications for the provisional visually impaired certificate; and
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment if adopted by the Board, or 2 years of verified teaching experience, as specified in R7-2-603; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
- M. Provisional Speech and Language Impaired Certificate -- grades K-12**
- 1. This certificate is valid for 2 years and is not renewable.
 - 2. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a ~~teacher~~ special education preparation program in speech and language pathology or communication disorders from an accredited institution; or

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- ii. Forty-five semester hours of ~~education~~ courses ~~which teach the knowledge and skills described in R7-2-602,~~ including 30 semester hours of ~~special education~~ courses for the speech-language impaired. ~~Special education courses~~ Courses shall include survey of exceptional students, teaching methodologies for students with speech impairment, foundations of instruction of students with speech-language impairment, foundations of instruction of students with speech-language impairment, and diagnostic and assessment procedures for the speech-language impaired services and a minimum of 200 clock hours of supervised clinical practice in providing speech and language impairment services. All clinical practice clock hours shall be supervised by an American Speech and Language Hearing Association-certified pathologist or by an individual who holds a speech and language impaired certificate; or
 - iii. A valid Speech and Language Impaired ~~special education~~ certificate from another state.
 - c. A passing score on the elementary professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the speech and language impaired special education portion of the Arizona Teacher Proficiency Assessment. A current certificate of clinical competence from the American Speech-Language-Hearing Association may substitute for a passing score on the speech and language impaired special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid Class 1 or Class 2 fingerprint clearance card.
- N. Standard Speech and Language Impaired Certificate -- grades K-12**
- 1. The certificate is valid for 6 years.
 - 2. The requirements are:
 - a. Qualification for the provisional speech and language impaired certificate;
 - b. A passing score on the performance portion of the Arizona Teacher Proficiency Assessment if adopted by the Board, or 2 years of verified teaching experience, as specified in R7-2-603; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.
- O. Provisional Early Childhood Special Education Certificate -- Birth to 5 years**
- 1. The certificate is valid for 2 years and is not renewable.
 - 2. The requirements are:
 - a. A Bachelor's degree;
 - b. One of the following:
 - i. Completion of a teacher preparation program in early childhood special education from an accredited institution; or
 - ii. Forty-five semester hours of education courses ~~which teach the standards described in R7-2-602,~~ including child development and learning, language development, social and emotional development, curriculum development and implementation, and assessment and evaluation, early childhood special education, and 8 semester hours of practicum in early childhood special education. Two years of verified teaching experience in the area of early childhood special education may be substituted for the 8 semester hours of practicum; or
 - iii. A valid early childhood special education certificate from another state.
 - c. A passing score on the elementary professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the early childhood special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid Class 1 or Class 2 fingerprint clearance card.
- P. Standard Early Childhood Special Education Certificate -- Birth to 5 years**
- 1. The certificate is valid for 6 years.
 - 2. Requirements are:
 - a. Qualify for the provisional early childhood Special Education certificate;
 - b. Passing score on the performance portion of the Arizona Teacher Proficiency Assessment if adopted by the Board, or 2 years of verified teaching experience, as specified in R7-2-603; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.

~~R7-2-611~~ R7-2-610. Vocational Education Teaching Certificates

- A.** Except as ~~noted~~ follows, all certificates are subject to the general certification provisions in ~~R7-2-607~~ R7-2-604 and the renewal requirements in ~~R7-2-616~~ R7-2-617.
- B.** Provisional Vocational Education Certificate - Agriculture -- grades K-12
 - 1. The certificate is valid for 2 years. The requirements are a Class 1 or Class 2 fingerprint clearance card and one of the following options:
 - 2. ~~The requirements are:~~

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- a. Option A:
 - ~~a-i.~~ A Bachelor's degree;
 - ~~b-ii.~~ Eighteen Thirty semester hours of courses in agriculture; and
 - ~~e-iii.~~ Two thousand clock hours of verified employment experience in agriculture in the last 6 years; and
 - ~~d.~~ A valid Class 1 or Class 2 fingerprint clearance card.
 - b. Option B:
 - ~~i.~~ An Arizona Standard Secondary certificate in any approved subject area;
 - ~~ii.~~ One year successful evaluation approved by a certified administrator;
 - ~~iii.~~ Three semester hours of any VTE methods course; and
 - ~~iv.~~ Two-hundred-forty clock hours of verified agricultural experience in the past three years; an agricultural practicum; or an approved agricultural industry-recognized occupational certification or license.
 - c. Option C:
 - ~~i.~~ Two-thousand hours of verified agricultural experience; or
 - ~~ii.~~ An agricultural practicum; or
 - ~~iii.~~ An approved agricultural industry-recognized occupational certification or license.
32. The holder of this certificate shall receive a passing score on the secondary professional knowledge portion of the Arizona Teacher Proficiency Assessment before ~~the second~~ renewal of the ~~p~~Provisional ~~+~~Vocational Education ~~e~~Certificate-Agriculture or the issuance of the ~~s~~Standard ~~+~~Vocational Education ~~e~~Certificate-Agriculture.
- C. Standard Vocational Education Certificate - Agriculture -- grades K-12
- 1. The certificate is valid for 6 years.
 - 2. The requirements are qualification for the Provisional Vocational Certificate – Agriculture, a Class 1 or Class 2 fingerprint clearance card, and one of the following options:
 - a. Qualification for the provisional vocational certificate – Agriculture;
 - a. Option A:
 - ~~b-i.~~ Thirty semester hours of courses in agriculture with at least 5 semester hours of courses credit in each 3 of the following 5 areas: animal science; plant science including soils; agricultural engineering or mechanics; economics or agricultural economics; and or agricultural or natural resources; and
 - ~~e-ii.~~ Eighteen Twenty-one semester hours of courses, to include the following areas: methods of teaching agriculture, curriculum and materials of instruction, managing student safety, youth leadership development, experiential education, and practicum in agriculture in grades K-12. Two years of experience teaching agriculture in grades K-12 may substitute for the practicum.
 - ~~d.~~ A valid Class 1 or Class 2 fingerprint clearance card.
 - b. Option B:
 - ~~i.~~ An Arizona Standard Secondary certificate in any approved subject area; and
 - ~~ii.~~ Fifteen semester hours to include:
 - (a) Three semester hours in classroom management and laboratory safety;
 - (b) Three semester hours specific to agricultural education professional knowledge;
 - (c) Six semester hours in agricultural subject knowledge or an approved agricultural industry-recognized certification or license; and
 - (d) Three semester hours in the operation of a Vocational Student Organization.
 - c. Option C:
 - ~~i.~~ Two years of successful evaluation approved by a certified administrator;
 - ~~ii.~~ Fifteen semester hours in professional knowledge that includes: principles/philosophy of vocational education, operation of a vocational student organization, methods of teaching agriculture, curriculum design/development, instructional technology, classroom management, laboratory safety, or educational philosophy; and
 - ~~iii.~~ Nine semester hours in agricultural subject knowledge or an approved industry-recognized certificate/license.
 - d. Option D:
 - ~~i.~~ Two years of successful evaluation approved by a certified administrator; and
 - ~~ii.~~ An internship consisting of a minimum of 360 contact hours that includes principles/philosophy of vocational education, operation of a vocational student organization, methods of teaching agriculture, curriculum design/development, instructional technology, classroom management, laboratory safety, or educational philosophy.
- D. Provisional Vocational Education Certificate – Business and Marketing -- grades K-12
- 1. The certificate is valid for 2 years.
 - 2. The requirements are a Class 1 or Class 2 fingerprint clearance card and one of the following options:
 - a. Option A:
 - ~~a-i.~~ A Bachelor's degree in business, marketing, business education or marketing education; and

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- ~~b. Thirty semester hours of business and office courses;~~
 - ~~e. Six semester hours of vocational education courses;~~
 - ~~d-ii. Two thousand clock hours of verified employment experience in business/office/technology/marketing occupations or a practicum in the areas of business/office or marketing occupations in the past 6 years; and~~
 - ~~e. A valid Class 1 or Class 2 fingerprint clearance card.~~
 - b. Option B:
 - i. An Arizona Standard Secondary certificate in any approved subject area;
 - ii. One year successful evaluation approved by a certified administrator;
 - iii. Three semester hours of a business or marketing methods course;
 - iv. Two-hundred-forty clock hours of verified experience in business/office/technology/marketing occupations in the past three years, or a practicum in the areas of business or marketing, or an approved business or marketing industry-recognized occupational certification/license; and
 - v. A passing score on the secondary subject knowledge portion of the Arizona Teacher Proficiency Assessment.
 - c. Option C:
 - i. Six-thousand clock hours of verified experience in business/office/technology/marketing occupations in the past six years or an approved business or marketing industry-recognized occupational certification/license; and
 - ii. A passing score on the secondary subject knowledge portion of the Arizona Teacher Proficiency Assessment.
 - 3. The holder of this certificate shall receive a passing score on the secondary professional knowledge portion of the Arizona Teacher Proficiency Assessment before ~~the second~~ renewal of the ~~p~~Provisional ~~+~~Vocational Education ~~e~~Certificate-Business and Marketing or the issuance of the ~~s~~Standard ~~+~~Vocational Education ~~e~~Certificate-Business and Marketing. The holder of this certificate issued under Option C shall also earn 6 credit hours in professional knowledge courses with 3 credit hours in a business or marketing methods course prior to the renewal of the Provisional Vocational Education Certificate – Business and Marketing or the issuance of the Standard Vocational Education Certificate – Business and Marketing.
- E. Standard Vocational Education Certificate – Business and Marketing -- grades K-12
- 1. The certificate is valid for 6 years.
 - 2. The requirements are a Class 1 or Class 2 fingerprint clearance card and one of the following options:
 - a. ~~Qualification for the provisional vocational certificate – Business;~~
 - a. Option A:
 - i. Qualification under Option A for the Provisional Vocational Education Certificate – Business and Marketing;
 - ii. One year of successful evaluation approved by a certified administrator; and
 - iii. Fifteen semester hours in professional knowledge that shall include: principles/philosophy of vocational education, operation of a vocational student organization, methods of teaching business or marketing, curriculum design/development, instructional technology, classroom management, educational philosophy, instructional design/methodology, or assessment/evaluation.
 - b. Option B:
 - i. Qualification under Option B for the Provisional Vocational Education Certificate – Business and Marketing;
 - ii. Twelve semester hours to include:
 - (a) Three semester hours in business or marketing education;
 - (b) Three semester hours in educational professional knowledge; and
 - (c) Six semester hours in business or marketing subject knowledge or an approved business or marketing industry-recognized certification or license.
 - c. Option C:
 - i. Qualification under Option C for the Provisional Vocational Education Certificate – Business and Marketing;
 - ii. Two years of successful evaluation approved by a certified administrator;
 - iii. Fifteen semester hours in professional knowledge that shall include: principles/philosophy of vocational education, operation of a vocational student organization, methods of teaching business or marketing, curriculum design/development, instructional technology, classroom management, educational philosophy, instructional design/methodology, or assessment/evaluation; and
 - iv. Nine semester hours in business or marketing subject knowledge or an approved business or marketing industry-recognized certificate/license.
 - b. ~~Twenty-one semester hours of vocational education courses, to include methods of teaching business and principles of vocational education; and~~

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- e. ~~A valid Class 1 or Class 2 fingerprint clearance card.~~
- F. Provisional Vocational Education Certificate - Family and Consumer Sciences – grades K-12
1. The certificate is valid for 2 years.
 2. The requirements are a Class 1 or Class 2 fingerprint clearance card and one of the following options:
 - a. Option A:
 - ~~a.i.~~ A Bachelor's degree; and
 - ~~b.ii.~~ Thirty semester hours of courses in Ffamily and Ceonsumer Ssciences with one course in each of the following: life-span human development; family or human relations; clothing and textiles or merchandising; nutrition, health or food preparation; facility management, housing or interior design; consumer economics or family resources; food production or culinary arts; and practicum a laboratory experience course in early childhood development, in child care or elder care;
 - b. Option B:
 - i. An Arizona Standard Secondary certificate in any approved subject area;
 - ii. One year successful evaluation approved by a certified administrator;
 - iii. Three semester hours of any VTE methods course; and
 - iv. Two-hundred-forty clock hours of verified family and consumer sciences experience in the past three years or a family and consumer sciences practicum or an approved family and consumer sciences industry-recognized occupational certification or license;
 - c. Option C:
 - i. Six-thousand hours of verified family and consumer sciences experience; or
 - ii. A family and consumer sciences practicum; or
 - iii. An approved family and consumer sciences industry-recognized occupational certification or license.
 - e. ~~Two thousand clock hours of verified employment in family and consumer sciences or 5 semester hours of practicum in family and consumer sciences, completed in the last 6 years; and~~
 - d. ~~A valid Class 1 or Class 2 fingerprint clearance card.~~
3. The holder of this certificate shall receive a passing score on the secondary professional knowledge portion of the Arizona Teacher Proficiency Assessment before ~~the second~~ renewal of the ~~pProvisional vVocational Education eCertificate-Family and Consumer Sciences~~ or the issuance of the ~~sStandard vVocational Education eCertificate-Family and Consumer Sciences~~.
- G. Standard Vocational Education Certificate - Family and Consumer Sciences -- grades K-12
1. The certificate is valid for 6 years.
 2. ~~Applicants shall meet all of t~~The requirements ~~in~~ are a Class 1 or Class 2 fingerprint clearance card and one of the following options:
 - a. Option A:
 - i. Qualification under Option A for the pProvisional vVocational Education eCertificate – Family and Consumer Sciences;
 - ii. Eighteen semester hours of courses in vocational education to include methods of teaching occupational Ffamily and Ceonsumer Ssciences; and
 - iii. ~~A valid Class 1 or Class 2 fingerprint clearance card~~ Eighty family and consumer sciences professional development hours or an 80 clock hour family and consumer sciences internship.
 - b. Option B:
 - i. ~~A Bachelor's degree~~ An Arizona Standard Secondary certificate in any approved subject area;
 - ii. Qualification under Option B for the Provisional Vocational Education Certificate – Family and Consumer Sciences;
 - iii. Twelve semester hours to include:
 - (a) Three semester hours in classroom management and laboratory safety;
 - (b) Three semester hours specific to family and consumer sciences education professional knowledge; and
 - (c) Six semester hours in family and consumer sciences subject knowledge or an approved family and consumer sciences industry-recognized certification or license.
 - c. Option C:
 - i. Qualification under Option C for the Provisional Vocational Education Certificate – Family and Consumer Sciences;
 - ii. Two years of successful evaluation approved by a certified administrator;
 - iii. Fifteen semester hours in professional knowledge including: principles/philosophy of vocational education, operation of a vocational student organization, methods of teaching family and consumer sciences, curriculum design/development, instructional technology, classroom management, laboratory safety, or educational philosophy; and
 - iv. Nine semester hours in family and consumer sciences subject knowledge or an approved industry-recognized certificate/license.

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- d. Option D:
 - i. Qualification under Option D for the Provisional Vocational Education Certificate – Family and Consumer Sciences;
 - ii. Two years of successful evaluation approved by a certified administrator; and
 - iii. An internship consisting of a minimum of 360 contact hours that includes principles/philosophy of vocational education, operation of a vocational student organization, methods of teaching family and consumer sciences, curriculum design/development, instructional technology, classroom management, laboratory safety, or educational philosophy.
 - ii. ~~Six thousand clock hours of verified employment in family and consumer sciences, completed in the last 6 years;~~
 - iii. ~~Fifteen semester hours of courses in vocational education, to include methods of teaching family and consumer sciences; and~~
 - iv. ~~A valid Class 1 or Class 2 fingerprint clearance card.~~
- H. Provisional Vocational Education Certificate - Health Occupations -- grades K-12
 - 1. The certificate is valid for 2 years and renewable once.
 - 2. The requirements are a Class 1 or Class 2 fingerprint clearance card, 2000 clock hours of verified experience in the program area during the last 6 years, a professional license, certificate or post-secondary degree related to the program to be taught as listed below, and one of the options as listed below:
 - a. ~~A valid Class 1 or Class 2 fingerprint clearance card.~~
 - b. ~~A professional license in a health occupation and 6,000 clock hours of verified employment in a health occupation in the last 6 years; or~~
 - e. ~~A Bachelor's degree in a biological science, health science, or physical science; two thousand clock hours of verified employment in the area to be taught, completed in the past 6 years; and a professional license in a health occupation.~~
 - a. Professional license, certificate or post-secondary degree:
 - i. Program: Nursing Assistant, License: Registered Nurse.
 - ii. Program: Physical Therapy Aide, License or certification: Physical Therapist, Physical Therapy Assistant or Certified Athletic Trainer.
 - iii. Program: Medical Laboratory Assistant, Certification or post-secondary degree: Medical/Clinical Laboratory Technician, Medical/Clinical Laboratory Technologist or Clinical Laboratory Scientist/Pathologist.
 - iv. Program: Dental Assistant, License, certification or post-secondary degree: Dental Hygienist, Dentist or Doctor of Dental Surgery.
 - b. Option A:
 - i. An Arizona Standard Secondary certificate in any approved subject area;
 - ii. One year successful evaluation approved by a certified administrator;
 - iii. Three semester hours of any VTE methods course; and
 - iv. Two-hundred-forty clock hours of the above mentioned two-thousand clock hours of verified health occupations experience in the past three years or a time equivalent health occupations internship in the past three years.
 - v. The holder of this certificate shall complete six semester hours of professional knowledge coursework that applies toward the Standard Vocational Education Certificate before the renewal of the provisional vocational education certificate.
 - c. Option B:
 - i. Two-hundred-forty clock hours of the above mentioned two-thousand clock hours of verified health occupations experience in the past three years or a time equivalent health occupations internship in the past 3 years.
 - ii. The holder of this certificate shall complete 6 semester hours of professional knowledge coursework that applies toward the Standard Vocational Education Certificate-Health Occupations before the renewal of the provisional vocational education certificate.
 - 3. The holder of this certificate shall receive a passing score on the secondary professional knowledge portion of the Arizona Teacher Proficiency Assessment before the second renewal of the pProvisional *Vocational Education eCertificate-Health Occupations or the issuance of the sStandard *Vocational Education eCertificate-Health Occupations.
- I. Standard Vocational Education Certificate - Health Occupations -- grades K-12
 - 1. The certificate is valid for 6 years.
 - 2. The requirements are a Class 1 or Class 2 fingerprint clearance card and one of the following options:
 - a. Option A:
 - i. Qualification under Option A for the Provisional Vocational Education Certificate-Health Occupations;
 - ii. An Arizona Standard Secondary Certificate in any approved subject area;
 - iii. Nine semester hours to include:
 - (a) Three semester hours in classroom management and laboratory safety; and

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c. Option C:

- i. Qualification under Option C for the Provisional Vocational Education Certificate – Industrial Technology;
- ii. Two years of successful evaluation approved by a certified administrator;
- iii. Fifteen semester hours in professional knowledge including: principles/philosophy of vocational education, operation of a vocational student organization, methods of teaching, curriculum design/development, instructional technology, classroom management, laboratory safety, or educational philosophy; and
- iv. Nine semester hours in industrial technology subject knowledge or an approved industry-recognized certificate/license.
- v. An internship consisting of a minimum of 360 contact hours that includes the professional knowledge areas specified in iii. above may substitute for iii. and iv.

d. Option D:

- i. Qualification under Option D for the Provisional Vocational Education Certificate – Industrial Technology;
- ii. A passing score on the secondary professional knowledge portion of the Arizona Teacher Proficiency Assessment.
 - a. Qualify for the provisional vocational certificate – Industrial Technology;
 - b. Fifteen semester hours of courses in vocational education, to include methods of teaching industrial technology; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.

~~L.~~ ~~Provisional Vocational Certificate – Marketing – grades K-12~~

1. ~~The certificate is valid for 2 years.~~
2. ~~The requirements are:~~
 - a. ~~A valid Class 1 or Class 2 fingerprint clearance card.~~
 - b. ~~A Bachelor's degree; and six thousand clock hours of verified employment in the area to be taught; or~~
 - c. ~~A Bachelor's or more advanced degree in business or marketing; two thousand clock hours of verified employment in marketing or a practicum in marketing occupations; and 6 semester hours of courses in each of the following: marketing, management, and finance.~~
3. ~~The holder of this certificate shall receive a passing score on the secondary professional knowledge portion of the Arizona Teacher Proficiency Assessment before the second renewal of the provisional vocational certificate or the issuance of the standard vocational certificate.~~

~~M.~~ ~~Standard Vocational Certificate – Marketing – grades K-12~~

1. ~~The certificate is valid for 6 years.~~
2. ~~The requirements are:~~
 - a. ~~Qualification for the provisional vocational certificate – Marketing under the requirements in paragraph (L)(2)(eb);~~
 - b. ~~Twelve semester hours of marketing or business education courses to include methods of teaching, and curriculum and materials of instruction; and~~
 - c. ~~A valid Class 1 or Class 2 fingerprint clearance card.~~

~~R7-2-612 R7-2-611.~~ **Other Teaching Certificates**

A. Except as noted, all certificates are subject to the general certification provisions in ~~R7-2-604~~ **R7-2-607**.

B. Substitute Certificate -- grades K-12

1. The certificate is valid for 6 years and renewable by reapplication.
2. The certificate entitles the holder to substitute in the temporary absence of a regular contract teacher. A person holding only a substitute certificate shall not be assigned a contract teaching position.
3. An individual who holds a valid Arizona teaching or administrator certificate shall not be required to hold a substitute certificate to be employed as a substitute teacher.
4. A person holding only a substitute certificate shall be limited to teaching 120 days in the same classroom school each school year.
5. The requirement for issuance is a Bachelor's degree and a valid Class 1 or Class 2 fingerprint clearance card.
6. Substitute certificates previously issued as valid for life under this rule shall remain valid for life.

C. Emergency Substitute Certificate -- grades K-12

1. The certificate is valid for one school year or part thereof. The expiration date shall be the following July 1.
2. The local governing board shall adopt guidelines and criteria to be used for determining and defining emergency employment situations within their school district.
23. ~~The certificate entitles the holder to substitute only in the specified county and in districts the county school superintendent approves district that verified that the emergency employment situation existed.~~
34. The certificate entitles the holder to substitute in the temporary absence of a regular contract teacher. A person holding only an emergency substitute certificate shall not be assigned a contract teaching position.

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45. The holder of an emergency substitute certificate shall be limited to 120 days of substitute teaching per school year and shall not serve in any one classroom for more than 20 working days.
6. Applicants who have been issued a 1-year certificate under the provisions of R7-2-605 shall not be eligible for an Emergency Substitute Certificate.
75. The requirements for initial issuance are:
 - a. High school diploma;
 - b. Verification from the school district superintendent, pursuant to the guidelines and criteria adopted by the local governing board pursuant to paragraph 2, that an emergency employment situation exists; and
 - e. ~~Concurrence by the county school superintendent that an emergency employment situation exists; and~~
 - dc. A valid Class 1 or Class 2 fingerprint clearance card.
86. The requirements for each reissuance are:
 - a. Two semester hours of academic courses completed since the last issuance of the Emergency Substitute Certificate. District in-service programs designed for professional development may substitute for academic courses. Fifteen clock hours of in-service is equivalent to 1 semester hour. In-service hours shall be verified by the district superintendent or personnel director. Individuals who have earned 30 or more semester hours are exempt from this requirement;
 - b. Verification from the school district superintendent that an emergency employment situation exists; and
 - e. ~~Concurrence by the county school superintendent that an emergency employment situation exists; and~~
 - dc. A valid Class 1 or Class 2 fingerprint clearance card.
7. ~~When the requesting school is a Bureau of Indian Affairs school, a Bureau of Indian Affairs grant school, a tribally controlled or contract school, concurrence by the county school superintendent shall not be required.~~
- D. Emergency Teaching Certificate -- grades K-12
 1. The certificate is valid 1 school year or part thereof. The expiration date shall be the following July 1.
 2. The local governing board shall adopt guidelines and criteria to be used for determining and defining emergency employment situations within their school district.
 23. The certificate entitles the holder to enter into a teaching contract.
 34. Emergency teaching certificates shall be issued only for elementary and secondary certificates required by A.R.S. §15-502(B), special education certificates, and required endorsements.
 5. The certificate entitles the holder to teach only in the district that verified that the emergency employment situation existed.
 6. Applicants who have taken any portion of the Arizona Teacher Proficiency Assessment and have not received a passing score shall not be eligible for an Emergency Teaching Certificate.
 7. Applicants who have been issued a 1-year certificate under the provisions of R7-2-605 shall not be eligible for an Emergency Teaching Certificate.
 84. The requirements for initial issuance are:
 - a. A Bachelor's degree;
 - b. Verification from the school district superintendent, pursuant to the guidelines and criteria adopted by the local governing board pursuant to paragraph 2, that an emergency employment situation exists; and
 - e. ~~Concurrence by the county school superintendent that an emergency employment situation exists; and~~
 - dc. A valid Class 1 or Class 2 fingerprint clearance card.
 95. The requirements for reissuance are:
 - a. Verification from the school district superintendent, pursuant to the guidelines and criteria adopted by the local governing board pursuant to paragraph 2, that an emergency employment situation exists;
 - b. ~~Concurrence by the county school superintendent that an emergency employment situation exists;~~
 - eb. Six semester hours of courses toward meeting the requirements for the specified certificate or endorsement, completed since the last issuance of the emergency teaching certificate. ~~If an applicant is enrolled in a Board-approved teacher preparation program, 90 clock hours toward completion of the program may substitute for the 6 semester hours; and~~
 - dc. A valid Class 1 or Class 2 fingerprint clearance card.
 6. ~~When the requesting school is a charter school, a Bureau of Indian Affairs school, a Bureau of Indian Affairs grant school, tribally controlled or contract school, concurrence by the county school superintendent shall not be required.~~
- E. Teaching Intern Certificate -- grades K-12
 1. The certificate is valid for 2 years and is not renewable.
 2. The intern certificate entitles the holder to perform intern or paraprofessional duties in whatever grades or levels are assigned.
 3. The requirements are:
 - a. Current enrollment in a teacher preparation program;
 - b. A recommendation from the dean of a college of education or the administrator of a Board-approved teacher preparation program; and

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e. ~~A valid Class 1 or Class 2 fingerprint clearance card.~~

4. ~~The holder shall be under the direct supervision of college and certified school personnel.~~

F. Adult Education Certificates

1. The adult education certificates are issued for individuals teaching in the areas of Adult Basic Education, General Educational Development, English as a Second Language, or Citizenship.
2. Provisional Adult Education Certificate
 - a. The certificate is valid for 3 years and is not renewable.
 - b. The requirement for issuance is a valid Class 1 or Class 2 fingerprint clearance card and a Bachelor's degree or 3 years of experience as a teacher, tutor, or aide in an adult education program or in grades K-12. Up to 2 years of experience may be waived by postsecondary academic credit, with 30 semester hours equivalent to 1 year of experience.
3. Standard Adult Education Certificate
 - a. The certificate is valid for 6 years.
 - b. The requirements are:
 - i. One year of part-time or full-time teaching experience under a provisional adult education certificate, verified by an adult education program administrator;
 - ii. Completion of 10 clock hours in a professional development program described in R7-2-616 ~~R7-2-617(B)~~ since the issuance of the provisional adult education certificate, verified by an Adult Education Program Administrator; and
 - iii. A valid Class 1 or Class 2 fingerprint clearance card.
 - c. The renewal requirements are completion of 60 clock hours in a professional development program, described in R7-2-616 and verified by an Adult Education Program Administrator ~~R7-2-617(B)~~.

G. Junior Reserve Officer Training Corps Teaching Certificate -- grades 9-12

1. The certificate is valid for 6 years and is renewable upon application.
2. The certificate is valid at any local education agency which conducts an approved Junior Reserve Officer Training Corps program of the Air Force, Army, Navy, or Marine Corps.
3. The requirements are:
 - a. Verification by the district of an approved Junior Reserve Officer Training Corps program of instruction in which the applicant will be teaching;
 - b. Verification by the district that the applicant meets the work experience required by the respective military service; and
 - c. A valid Class 1 or Class 2 fingerprint clearance card.

H. Athletic coaching certificate -- grades 7-12

1. The certificate is valid for 6 years.
2. The certificate entitles the holder to perform coaching duties in interscholastic and extracurricular athletic activities. It is not required for teachers who hold a valid elementary, secondary or special education certificate.
3. The requirements are:
 - a. Valid certification in first aid and Coronary and Pulmonary Resuscitation (CPR);
 - b. Completion of 15 semester hours of courses which shall include at least 3 semester hours in courses related to each of the following: methods of coaching; anatomy and physiology; sports psychology; adolescent psychology; and the prevention and treatment of athletic injuries;
 - c. 250 hours of verified coaching experience in the sport to be coached. Coaching experience may include experience as a head coach or assistant coach in a school program or in an organized athletic league; and
 - d. A valid Class 1 or Class 2 fingerprint clearance card.
4. Renewal requirements are:
 - a. Completion of 60 clock hours in a professional development program described in R7-2-616 ~~R7-2-617(B)~~;
 - b. Valid certification in first aid and CPR.

~~R7-2-613~~ R7-2-612. Endorsements

- A. An endorsement shall be automatically renewed with the certificate on which it is posted. Endorsements are valid only for the grade levels specified on the certificate on which it is posted.
- B. Except as noted, all endorsements are subject to the general certification provisions in R7-2-604 ~~R7-2-607~~.
- C. Endorsements which are optional as specified herein may be required by local governing boards.
- D. Special subject endorsements -- grades K- 8 or 7-12
 1. Special subject endorsements shall be issued in the area of art, computer science, dance, dramatic arts, music, or physical education.
 2. Special subject endorsements are optional.
 3. The requirements are:
 - a. An Arizona elementary, secondary, or special education certificate;

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- b. ~~At least 1~~ One course in the methods of teaching the subject at the elementary level and ~~the methods of teaching the subject at the secondary level; and~~
 - e. ~~One course in the methods of teaching the subject at the secondary level; and~~
 - cd. One of the following:
 - i. ~~Thirty~~ Twenty-four semester hours of courses in the subject area; or
 - ii. A passing score on the subject area portion of the Arizona Teacher Proficiency Assessment, if an assessment has been adopted by the Board.
- E. Mathematics Specialist Endorsement -- grades K-8**
- 1. The mathematics specialist endorsement is optional.
 - 2. The requirements are:
 - a. An Arizona elementary or special education certificate;
 - b. Three semester hours of courses in the methods of teaching elementary school mathematics; and
 - c. Fifteen semester hours of courses in mathematics education for teachers of elementary or middle school mathematics.
- F. Reading Specialist Endorsement -- grades K- 8 or 7-12**
- 1. The reading specialist endorsement shall be required of an individual in the position of reading specialist, reading consultant, remedial reading teacher, special reading teacher, or in a similar position.
 - 2. The requirements are:
 - a. An Arizona elementary, secondary, or special education certificate; and
 - b. Fifteen semester hours of courses to include decoding, diagnosis and remediation of reading difficulties, and practicum in reading.
- G. Elementary Foreign Language Endorsement -- grades K-8**
- 1. The elementary foreign language endorsement is optional.
 - 2. The requirements are:
 - a. An Arizona elementary, secondary or special education certificate
 - b. Proficiency in speaking, reading, and writing a language other than English, verified by the appropriate language department of an accredited institution. American Indian language proficiency shall be verified by an official designated by the appropriate tribe.
 - c. Three semester hours of courses in the methods of teaching a foreign language at the elementary level
- H. Bilingual Endorsements -- grades K- 8 or 7-12**
- 1. A provisional bilingual endorsement or a bilingual endorsement is required of an individual who is a bilingual classroom teacher, bilingual resource teacher, bilingual specialist, or otherwise responsible for providing bilingual instruction.
 - 2. The provisional bilingual endorsement is valid for 3 years and is not renewable. The requirements are:
 - a. An Arizona elementary, secondary, or special education, or vocational certificate; and
 - b. Proficiency in a language other than English or sign language.
 - 3. The holder of the bilingual endorsement is also authorized to teach English as a second language.
 - 4. The requirements are:
 - a. An Arizona elementary, secondary, special education, or vocational certificate;
 - b. Completion of a bilingual education program from an accredited institution or the following courses:
 - i. Three semester hours of foundations of instruction for non-English-language-background students;
 - ii. Three semester hours of bilingual methods;
 - iii. Three semester hours of English as a second language for bilingual settings;
 - iv. Three semester hours of courses in bilingual materials and curriculum; assessment of limited-English-proficient students; teaching reading and writing in the native language; ~~or English as a second language for bilingual settings;~~
 - v. Three semester hours of linguistics to include psycholinguistics, sociolinguistics, first language acquisition, and second language acquisition for language minority students; or American Indian language linguistics;
 - vi. Three semester hours of courses dealing with school, community, and family culture and parental involvement in programs of instruction for non-English-language-background students; and
 - vii. Three semester hours of courses in methods of teaching and evaluating handicapped children from non-English-language backgrounds. These hours are only required for bilingual endorsements on special education certificates.
 - c. A valid bilingual certificate or endorsement from another state may be substituted for the courses described in paragraph (b) of this Section;
 - d. Practicum in a bilingual program or 2 years of verified bilingual teaching experience; and
 - e. Proficiency in a spoken language other than English, verified by the language department of an accredited institution except in the case of Spanish and American Indian languages. Spanish language proficiency shall be dem-

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onstrated by passing the Arizona Classroom Spanish Proficiency Examination approved by the Board. American Indian language proficiency shall be verified by an official designated by the appropriate tribe.

I. English as a Second Language (ESL) Endorsements -- grades K- 8 or 7-12

1. An ESL or bilingual endorsement is required of an individual who is an ESL classroom teacher, ESL specialist, ESL resource teacher, or otherwise responsible for providing ESL instruction.
2. The provisional ESL endorsement is valid for 3 years and is not renewable. The requirements are:
 - a. An Arizona elementary, secondary, or special education, or vocational certificate; and
 - b. Six semester hours of courses specified in paragraph (3)(b) of this Section, including at least 1 course in methods of teaching ESL students.
3. The requirements for the ESL endorsement are:
 - a. An Arizona elementary, secondary, special education, or vocational certificate;
 - b. Completion of an ESL education program from an accredited institution or the following courses:
 - i. Three semester hours of courses in foundations of instruction for non-English-language-background students. Three semester hours of courses in the nature and grammar of the English language, taken before January 1, 1999, may be substituted for this requirement;
 - ii. Three semester hours of ESL methods;
 - iii. Three semester hours of teaching of reading and writing to limited-English-proficient students;
 - iv. Three semester hours of assessment of limited-English-proficient students;
 - v. Three semester hours of linguistics; and
 - vi. Three semester hours of courses dealing with school, community, and family culture and parental involvement in programs of instruction for non-English-language-background students.
 - c. Three semester hours of a practicum or 2 years of verified ESL or bilingual teaching experience, verified by the district superintendent;
 - d. Second language learning experience, which may include sign language. Second language learning experience may be documented by any of the following:
 - i. Six semester hours of courses in a single second language, or the equivalent, verified by the department of language, education, or English at an accredited institution;
 - ii. Completion of intensive language training by the Peace Corps, the Foreign Service Institute, or the Defense Language Institute;
 - iii. Placement by the language department of an accredited institution in a third-semester level;
 - iv. Placement at level 1-intermediate/low or more advanced score on the Oral Proficiency Interview, verified by the American Council for the Teaching of Foreign Languages;
 - v. Passing score on the Arizona Classroom Spanish Proficiency Examination approved by the Board; or
 - vi. Proficiency in an American Indian language, verified by an official designated by the appropriate tribe.
 - e. A valid ESL certificate or endorsement from another state may be substituted for the requirements described in paragraphs (b), (c), and (d) of this Section.

J. Gifted Endorsements -- grades K- 8 or 7-12

1. A gifted endorsement is required of individuals whose primary responsibility is teaching gifted students.
2. The provisional gifted endorsement is valid for 3 years and is not renewable. The requirements are an Arizona elementary, secondary, or special education certificate and 1 of the following:
 - a. Two years of verified teaching experience in which most students were gifted;
 - b. Ninety clock hours of verified in-service training in gifted education; or
 - c. Six semester hours of courses in gifted education.
3. Requirements for the gifted endorsement are:
 - a. An Arizona elementary, secondary, or special education certificate;
 - b. Completion of 9 semester hours of upper division or graduate level courses in an academic discipline such as science, mathematics, language arts, foreign language, social studies, psychology, fine arts, or computer science; and
 - c. Two of the following:
 - ~~i. Three years of verified teaching experience in gifted education as a teacher, resource teacher, specialist, or similar position, verified by the district; or~~
 - ~~ii. A minimum of 135 clock hours of verified in-service training in gifted education; or~~
 - ~~iii. Completion of 12 semester hours of courses in gifted education. District in-service programs in gifted education may be substituted for up to 6 semester hours of gifted education courses. Fifteen clock hours of in-service is equivalent to 1 semester hour. In-service hours shall be verified by the district superintendent or personnel director. Practicum courses shall not be accepted toward this requirement; or~~
 - ~~iiii. Completion of 6 semester hours of practicum or 2 years of verified teaching experience in which most students were gifted.~~

K. Library-Media Specialist Endorsement -- grades K- 8 or 7-12

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1. The library-media specialist endorsement is optional.
 2. Requirements are:
 - a. An Arizona elementary, secondary, or special education certificate;
 - b. A passing score on the Library Media Specialist portion of the Arizona Teacher Proficiency Assessment. A Master's degree in Library Science may be substituted for a passing score on the assessment; and
 - c. One year of teaching experience.
- L. Middle Grade Endorsement -- grades 5 - 9**
1. The middle grade endorsement is optional. The middle grade endorsement may expand the grades a teacher is authorized to teach on an elementary or secondary certificate.
 2. The requirements are:
 - a. An Arizona elementary or secondary certificate; ~~and~~
 - b. Six semester hours of courses in middle grade education to include:
 - i. At least 1 One course which included early adolescent psychology and middle grade curriculum; and
 - ii. ~~One course in middle grade curriculum; and~~
 - iii. A practicum or 1 year of verified teaching experience, in grades 5-9.
- M. Drivers Education Endorsement**
1. The drivers education endorsement is optional.
 2. The requirements are:
 - a. An Arizona teaching certificate;
 - b. A valid Arizona driver's license;
 - c. At least 1 One course which includes in each of the following: safety education, driver and highway safety education, and driver education laboratory experience; and
 - d. A driving record with less than 7 violation points and no revocation or suspension of driver's license within the 2 years preceding application.
- N. Cooperative Education Endorsement -- grades K – 8 or 7-12**
1. The cooperative education endorsement is required for individuals who coordinate or teach vocational cooperative education.
 2. The requirements are:
 - a. A provisional or standard vocational certificate in the areas of agriculture, business, family and consumer sciences, health occupations, marketing, or industrial technology; and
 - b. One course in vocational cooperative education.

~~R7-2-614~~ R7-2-613. Administrative Certificates

- A.** All certificates are subject to the general certification provisions in ~~R7-2-604~~ R7-2-607 and the renewal requirements in ~~R7-2-616~~ R7-2-617.
- B. Supervisor Certificate -- grades Prekindergarten-12**
1. The supervisor certificate is required for all personnel whose primary responsibility is administering instructional programs; or supervising certified teaching personnel; or similar administrative duties.
 2. The certificate may be renewed with a concurrently held teaching certificate. The expiration date shall be the same as the expiration date of the teaching certificate.
 3. The requirements are:
 - a. A standard elementary, secondary, or special education certificate;
 - b. A Master's or more advanced degree;
 - c. Three years of verified teaching experience in grades Prekindergarten-12 for which an Arizona certificate was required;
 - d. Completion of a program in educational administration which shall consist of a minimum of 18 graduate semester hours of educational administration courses and which included a practicum in educational administration which teach the knowledge and skills described in R7-2-603;
 - e. ~~A practicum in educational administration or 2 years of verified educational administrative experience in grades Prekindergarten-12;~~
 - ef. A passing score on the ~~professional knowledge portion of the~~ Arizona Administrator Proficiency Assessment; and
 - g. ~~A passing score on the performance portion of the Arizona Administrator Proficiency Assessment; and~~
 - fh. A valid Class 1 or Class 2 fingerprint clearance card.
 4. A valid supervisor certificate from another state may be substituted for the teaching experience, program in educational administration, and practicum described above in paragraphs (3)(e), (3)(d), and (3)(e) of this Section.
- C. Principal Certificate -- grades Prekindergarten-12**
1. The principal certificate is required for all personnel who hold the title of principal, assistant principal, or others with similar administrative duties.

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2. The certificate is valid for 6 years.
 3. The requirements are:
 - a. A Master's or more advanced degree;
 - b. Three years of verified teaching experience in grades Prekindergarten-12;
 - c. Completion of a program in educational administration for principals including at least 30 graduate semester hours of educational administration courses and which included a practicum as a principal teaching the knowledge and skills described in R7-2-603;
 - ~~d. A practicum as a principal or 2 years of verified experience as a principal or assistant principal in grades Prekindergarten-12;~~
 - ~~de. A passing score on the professional knowledge portion of the Arizona Administrator Proficiency Assessment; and~~
 - ~~f. A passing score on the performance portion of the Arizona Administrator Proficiency Assessment; and~~
 - ~~eg. A valid Class 1 or Class 2 fingerprint clearance card.~~
 4. A valid principal certificate from another state may be substituted for the teaching experience, program in educational administration, and practicum described above in paragraphs (3)(b), (3)(c), and (3)(d) of this Section.
- D. Superintendent Certificate -- grades Prekindergarten-12**
1. The superintendent certificate is required for superintendents, assistant or associate superintendents, district chief executive officers regardless of title, and others with similar district-level administrative duties in school districts with a student population of more than 600.
 2. The certificate is valid for 6 years.
 3. The requirements are:
 - a. A Master's or more advanced degree including at least 60 graduate semester hours;
 - b. Completion of a program in educational administration for superintendents, including at least 36 graduate semester hours of educational administrative courses and which included a practicum as a superintendent which teach the standards described in R7-2-603;
 - c. Three years of verified teaching experience in grades Prekindergarten-12;
 - ~~d. A practicum as a superintendent or 2 years verified experience as a superintendent, assistant superintendent, or associate superintendent in grades Prekindergarten-12;~~
 - ~~de. A passing score on the professional knowledge portion of the Arizona Administrator Proficiency Assessment; and~~
 - ~~f. A passing score on the performance portion of the Arizona Administrator Proficiency Assessment; and~~
 - ~~eg. A valid Class 1 or Class 2 fingerprint clearance card.~~
 4. A valid superintendent certificate from another state may be substituted for the program in educational administration, teaching experience, and practicum described above in paragraphs (3)(b), (3)(c), and (3)(d) of this Section.
 5. Individuals who hold an Alternative Superintendent Certificate before the effective date of this rule shall be issued a Superintendent Certificate at the time of renewal. Individuals who were evaluated for an Alternative Superintendent Certificate before the effective date of this rule and who meet the qualifications in effect at the time of evaluation within 2 years of the evaluation shall be issued a Superintendent Certificate.

~~R7-2-615~~ R7-2-614. Other Professional Certificates

- A.** All certificates are subject to the general certification provisions in R7-2-604 ~~R7-2-607~~ and the renewal requirements in R7-2-616 ~~R7-2-617~~.
- B. Guidance Counselor Certificate -- grades Prekindergarten-12 ~~K-12~~**
 1. The guidance counselor certificate is valid for 6 years.
 2. The requirements are:
 - a. A Master's or more advanced degree;
 - b. Completion of a graduate program in guidance and counseling. A valid guidance counselor certificate from another state may substitute for this requirement;
 - c. A valid Class 1 or Class 2 fingerprint clearance card; and
 - d. One of the following:
 - i. Completion of a supervised counseling practicum in school counseling;
 - ii. Two years of verified, full-time experience as a school guidance counselor; or
 - iii. Three years of verified teaching experience.
- C. School Psychologist Certificate -- grades Prekindergarten-12**
 1. The school psychologist certificate is valid for 6 years.
 2. The requirements are:
 - a. A Master's or more advanced degree;
 - b. Completion of a graduate program in school psychology consisting of at least 60 graduate semester hours;
 - c. A practicum of at least 1,000 clock hours; and

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- d. A valid Class 1 or Class 2 fingerprint clearance card.
3. A valid school psychologist certificate from another state may be substituted for the completion of a program described in paragraph (2)(b).

~~R7-2-616~~ R7-2-615. Fees

- A.** ~~The Superintendent of Public Instruction or the Superintendent's designee shall collect proper fees for certification services and shall transmit the fees to the State Treasurer.~~ The following fees are established for certification services:
1. Evaluation of qualification for a certificate: \$30.00.
 2. Evaluation of qualification for an endorsement: \$30.00.
 3. Renewal of a certificate: \$20.00.
 4. Name change, duplicate copy, or changes of coding to existing files or certificates: \$20.00.
 5. ~~Processing of fingerprints through state and federal law enforcement agencies: \$32.00, unless a different fee is required to be paid to another state agency.~~
- B.** ~~The Superintendent of Public Instruction or the Superintendent's designee shall collect \$10.00 for each administration and evaluation, in whole or in part, of the Arizona Teacher Proficiency Assessment administered by the Department and shall transmit the fees to the State Treasurer.~~
- BC.** Fees shall be paid by money order, cashier's check, certified check, business check, or personal check, at the discretion of the Director of Certification, and shall be made payable to the order of the Arizona Department of Education. If a check offered in payment for services is not cleared by the financial institution, the applicant shall be notified to pay the fees by money order or certified check. If a certificate has been issued or renewed and payment is not received within 2 weeks of notification to the applicant, the Board shall file a statement of complaint pursuant to R7-2-1302. If a certificate or renewal has not been issued, no certificate or renewal shall be issued until the fees are paid by ~~cashier's~~ certified check or money order.
- CD.** Fees paid pursuant to this rule are not refundable.

~~R7-2-617~~ R7-2-616. Renewal Requirements

- A.** A certificate may be renewed within 6 months before it expires. An individual holding multiple valid certificates may renew all certificates at one time in order to align the expiration dates of all certificates held. Multiple certificates must be renewed at the same time as renewal of the certificate that will expire first. A certificate may be renewed within 1 year after it expires if the individual is not employed under the certificate. Individuals whose certificates have been expired for more than 1 year shall reapply for certification under the requirements in effect at the time of reapplication.
- B.** The Director of Certification shall extend the valid date of a certificate for those individuals whose certificates were renewed after December 7, 1998, if the expiration date of the certificate renewed was the individual's birth date and the individual did not receive a full valid period on the certificate. The valid date of a certificate may only be extended for the length of time between the individual's birth date and July 1.
- C.** A certificate may be renewed within 1 year after it expires if the individual is not employed under the certificate. Individuals whose certificates have been expired for more than 1 year shall reapply for certification under the requirements in effect at the time of reapplication.
- DB.** Renewal of certificates requires the completion of a professional development program after the most recent issuance or renewal of the certificate. A professional development program shall consist of activities that were completed during the valid period of the certificate to be renewed. A professional development program shall consist of any of the following activities:
1. Courses related to education or a subject area taught in Arizona schools, taken from an accredited institution. Each semester hour of courses shall be equivalent to 15 clock hours of professional development. The required documentation shall be an official transcript.
 2. Professional activities such as conferences and workshops. A maximum of 30 clock hours per year may be earned by attendance at professional conferences and workshops. The required documentation shall be a conference agenda and a statement or certificate from the sponsoring organization noting the clock hours earned.
 3. District-sponsored or school-sponsored in-services or activities which are specifically designed for professional development. The required documentation shall be written verification from the sponsoring district or school stating the dates of participation and the number of clock hours earned.
 4. Internships in business settings. The internship shall be based on an agreement between a business and a district or school with the stated objective of aligning teaching curriculum with workplace skills. A maximum of 80 clock hours may be earned through business internships. The required documentation shall be written verification by the sponsoring business and district or school stating the dates of participation and number of clock hours earned.
 5. Educational research. The research shall be sponsored by a research facility or an accredited institution or funded by a grant. The required documentation shall be the published report of the research or verification by the sponsoring agency; and a statement of the dates of participation and the number of clock hours earned.

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6. Serving on an education-related board, council, commission, committee or task force as an appointed or elected member or in a leadership role of ~~a~~ an education-related professional organization. A maximum of 30 clock hours per year may be earned by serving on an education-related board, council, commission, committee or task force or in a leadership role of ~~a~~ an education-related professional organization. The required documentation shall be written verification by the governing body ~~of the professional organization~~ of the dates of service and clock hours earned.
 7. Serving on a visitation team for a school accreditation agency. A maximum of 60 clock hours per year may be earned by serving on a visitation team. The required documentation shall be written verification from the accreditation agency of the dates of service and clock hours earned.
 8. Completion of the process for certification by the National Board of Professional Teaching Standards. The required documentation shall be written verification from the National Board of Professional Teaching Standards and a statement from the employing district or school verifying the dates and the clock hours earned during the certification process.
- EC.** An individual holding a Basic or Standard teaching certificate, an administrative certificate, or other professional certificate issued before July 1, 1995 may renew the certificate once before July 1, 2001 based on verification from the employer of continuous full-time employment with an education agency during the entire last valid period of the certificate being renewed. If an individual holding a valid Basic or Standard teaching certificate, administrative certificate, or other professional certificate was not employed during the entire last valid period of the certificate being renewed, the certificate may be renewed once before July 1, 2001 upon completion of 90 clock hours of a professional development program.
- ED.** An individual holding a Basic or Standard teaching certificate, an administrative certificate, or other professional certificate issued or renewed before July 1, 1997, may renew the certificate once before July 1, 2003 upon completion of 90 clock hours of a professional development program.
- EE.** An individual holding a Basic or Standard teaching certificate, an administrative certificate, or other professional certificate issued or renewed after June 30, 1997, and an individual holding a Temporary certificate, may renew or convert the certificate upon completion of 180 clock hours of a professional development program.
- EF.** An individual who is employed by a school or school district at the time of renewal shall submit the required documentation of a professional development program to the district superintendent, director of personnel, or other designated administrator for verification. A certified individual who is not employed by a school or school district at the time of renewal shall submit the required documentation of a professional development program to a county school superintendent, the dean of a college of education, ~~or the Department~~ for verification. The school or district official, county school superintendent, or the dean of a college of education shall verify on forms provided by the Department the number of hours of a professional development program completed by the individual during the valid period of the certificate being renewed.
- EG.** The ~~Department~~ Board shall issue a Standard teaching certificate when renewing a Basic or Temporary teaching certificate of the same type.
- EH.** A provisional vocational certificate shall be renewed for 2 years upon completion of 9 semester hours of courses required for the standard vocational certificate in the same vocational area, completed since the most recent issuance or renewal of the provisional certificate.
- EI.** Applicants for renewal of a certificate shall have:
1. A valid Class One or Class Two fingerprint clearance card; or
 2. Proof that an application for a Class One or Class Two Fingerprint clearance card has been submitted to the Arizona Department of Public Safety; or
 3. Received a Class One or Class Two fingerprint clearance card issued pursuant to Title 41, Chapter 12, Article 3.1 for the purposes of certification by the Board.

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 7. DEPARTMENT OF ENVIRONMENTAL QUALITY - REMEDIAL ACTION PROGRAM

PREAMBLE

1. Sections Affected

Article 4
Article 5
R18-7-501
R18-7-502
R18-7-503
R18-7-504
R18-7-505
R18-7-506
R18-7-507

Rulemaking Action

Amend
New Article
New Section
New Section
New Section
New Section
New Section
New Section
New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. § 41-1003, § 49-104, and § 49-203

Implementing statutes: A.R.S. § 49-186, Laws 2000, Chapter 225, § 13

3. The effective date of the rules:

The interim rules in this Notice of Proposed Rulemaking will become effective on the thirtieth day after the last public hearing described in Question 11. This interim rulemaking is discussed further in the answer to Question 6.

4. A list of all previous notices appearing in the Register addressing the exempt rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 2681, July 14, 2000

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Craig Salminen or Ren Willis-Frances
Address: 3033 North Central Avenue
Phoenix, Arizona 85012
Telephone: (602) 207-2227 or (602) 207-4109
Fax: (602) 207-2251
TTD: (602) 207-4829

6. An explanation of the rule, including the agency's reasons for initiating the rule:

A. Authorization

This is an interim rulemaking authorized in session law at Laws 2000, Chapter 225, § 13. The session law requires the Department to adopt rules establishing the fees prescribed for the voluntary remediation program in A.R.S. § 49-179. The session law exempts this interim rulemaking from the rulemaking provisions at A.R.S. Title 41, Chapter 6, Article 3, but requires the Department to publish the interim rules in the *Arizona Administrative Register*, provide for reasonable notice and hold at least one public hearing on the proposed interim rules. The interim rules become effective no earlier than the thirtieth day after the last public hearing. These interim rules will expire and are automatically repealed on the date that permanent rules become effective.

Laws 2000, Chapter 225, § 13 requires the Department to file with the Secretary of State a Notice of Rulemaking Docket Opening for the permanent rulemaking within 90 days after the filing of the interim rules. Within 30 days of filing the Notice of Rulemaking Docket Opening, the Department is required to file a Notice of Proposed Rulemaking for the permanent rules.

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This rulemaking also proposes to amend 18 A.A.C. 7, Article 4 to change its title. Article 4 consists of a single rule, R18-7-401, which establishes the Greenfields pilot program fee. Article 4 is currently titled "Voluntary Remediation Program". Under this proposed rule, Article 4 will be retitled "Greenfields Pilot Program". Article 5, will be titled "Voluntary Remediation Program" and will establish fees under the voluntary remediation program. This amendment of Article 4 is authorized under A.R.S. § 49-186 as necessary to implement Section A.R.S. § 49-179.

B. Background for these proposed Rules

On July 18, 2000, Senate Bill 1454 (Laws 2000, Chapter 225) became effective, terminating the Department's two existing voluntary remediation programs and establishing a single new voluntary remediation program. Before enactment of Laws 2000, Chapter 225, the Department maintained a "WQARF voluntary program" and an "agency-wide voluntary program." For all practical purposes, there was no difference between these programs. Both programs shared a similar purpose and were administered by the same Department personnel. Both programs were funded, in part, through cost reimbursements from program participants and, in part, through allocations from the Water Quality Assurance Revolving Fund. Laws 2000, Chapter 225 effectively merges the existing voluntary remediation programs into a single program.

The new voluntary remediation program provides an opportunity for property owners and other interested parties to voluntarily investigate and remediate contaminated sites and to obtain the Department's review and approval of remedial actions. The program encourages the voluntary cleanup of environmental contamination and offers its participants a stay of departmental enforcement actions, an expedited review of voluntary remedial actions, and, if remediation levels and controls meet statutory requirements, a means of obtaining a determination that the Department will not take or require further action at the site.

Under the new program, any person may request that the Department review and approve work plans for proposed remedial actions and to approve remedial action work that has been previously performed. The program does not apply to certain corrective actions taken at hazardous waste sites or underground storage tank sites or to remedial actions required by the Department, a court of law or under an administrative order. Nor does the program apply to remedial actions taken at sites that are listed on the WQARF site registry.

Laws 2000, Chapter 225 provides for benefits under the new program that were not available under the previous programs:

Expedited Review: Under Laws 2000, Chapter 225, applications are to be reviewed promptly to determine program eligibility. Applications that are not denied or found to be incomplete within 60 days of receipt are deemed to be complete. If the work described in the application is not excluded under the applicability provisions of A.R.S. § 49-172, the application will be approved. Work plans are to be reviewed expeditiously and, at the option of the applicant, may provide for review and approval of completed phases or tasks before initiation of the next phase or task. Upon an applicant's request and an agreement to reimburse the Department for additional costs incurred, the Department may contract with outside parties to perform review functions within a time-frame that meets the applicant's deadlines.

No Further Action Determinations: Under the previous voluntary remediation programs, letters of completion were available to verify compliance with the soil remediation standards established under 18 A.A.C. 7, but no similar vehicle was available for groundwater sites or landfills. Previous legislation did not authorize, and the Department did not issue, no further action determinations in regard to voluntary sites. Laws 2000, Chapter 225 provides authorization and a process for obtaining a determination that the Department will take no further action to remediate and will not require remediation of a site or portion of a site. The Department may rescind or amend a no further action determination under conditions specified in the statute.

Increased Community Involvement: Previously, the program's community involvement requirements were generally defined. Under Laws 2000, Chapter 225 community involvement requirements are extensive, clearly defined and specifically tailored to the nature and scope of the remediation.

Standards for Approval of Remediation Actions: Under Laws 2000, Chapter 225, remediation levels or controls must comply with the WQARF remedy selection rules or meet alternative standards set out in A.R.S. § 49-175.

A.R.S. § 49-285(B) Approval for Cost Recovery: Under previous enabling legislation, it was not clear that Departmental approval of remedial action work performed on program sites was available for cost recovery purposes under A.R.S. § 49-285. Laws 2000, Chapter 225 provides specific authorization for obtaining this approval.

Suspensions of Enforcement Actions: Previously, suspension of enforcement actions was available only under the WQARF voluntary program. Laws 2000, Chapter 225 extends this benefit to any site or portion of a site which is described in an approved voluntary remediation program work plan.

C. Declaration of Environmental Use Restriction

Laws 2000, Chapter 225 amends A.R.S. Title 49, Chapter 1, Article 4 to eliminate the Voluntary Environmental Mitigation Use Restriction (VEMUR) and to replace it with a Declaration of Environmental Use Restriction (DEUR). The DEUR is a covenant granted by a property owner that chooses to remediate contaminated soil to non-residential soil levels, or to prevent or reduce exposure to contaminants through the use of engineering controls or institutional controls. The DEUR is recorded in the county recorder's office of each county in which the property lies and, once recorded, becomes an encumbrance on the property's legal title. A DEUR ensures that future owners, as well as current owners, have notice of and responsibility for the remediation level or control mechanism that applies to the property. Once recorded, a DEUR remains on record until the Department, at the request of the property owner, determines that the release of the DEUR is appropriate and records a notice, in each county where the property is located, releasing the property.

Although the DEUR established by Laws 2000, Chapter 225 is a tool available to participants in the voluntary remediation program, this rulemaking does not propose rules to implement the DEUR. A DEUR fee rule will be proposed at a later date in a separate rulemaking. The Department may propose other rules implementing the DEUR, as needed.

D. Program Funding

The new voluntary remediation program is funded with monies drawn from the Voluntary Remediation Fund established in A.R.S. § 49-187. Although the statute lists gifts, grants, donations and legislative appropriations as potential sources of Voluntary Remediation Fund monies, the program will be principally financed by program fees that reimburse the Department for costs incurred in administering the program. Laws 2000, Chapter 225 provides for an application fee to be submitted with each program application and for the reimbursement of reasonable and necessary costs at a rate based on estimated direct and indirect costs of conducting the program. The amount of the application fee and the cost reimbursement rate are to be established in rule. Until July 1, 2004 the program will be supported, in part, by an annual allocation of no more than \$350,000.00 from the Water Quality Assurance Revolving Fund. If, after June, 30, 2004, program fees and reimbursements are not sufficient to sustain the program, the Department shall either discontinue the program or obtain alternate program funding.

E. Today's Rulemaking

Today's rulemaking establishes the Department's proposed implementation of the reimbursement provisions of A.R.S. § 49-179. A.R.S. § 49-179 requires that the Department establish by rule a nonrefundable application fee and an hourly fee to reimburse the Department for time spent by employees on program activities. The hourly reimbursement rate is to be based on estimated direct and indirect costs to the Department of conducting these activities. The statute also authorizes the recovery of the costs of goods and services incurred by the Department to carry out program activities, including costs under contracts with outside consultants to provide technical review or to oversee work performed under an approved work plan.

A.R.S. § 49-179 authorizes the Department to require participants to pay advance deposits to be applied against the Department's reimbursable costs. The Department is required to support its claims for reimbursement with documentation consistent with generally accepted accounting principles. At the time of termination or withdrawal from the program, applicants are required to reimburse the Department for its costs incurred.

Laws 2000, Chapter 225 §13 also authorizes the adoption of fee rules required under A.R.S. § 49-152(H) and A.R.S. § 49-158(E), relating to the Declaration of Environmental Use Restrictions (DEUR). DEUR fee rules are not proposed in this rulemaking but will be proposed at a later date in a separate rulemaking.

F. Section-by-Section Analysis

R18-7-501. Definitions This Section defines terms used in the rule. The definition of "applicant" as "a person who participates in the voluntary remediation program" is consistent with the use of the term in the underlying statute. In both the statute and these rules a participant is an "applicant" from the time that a program application is submitted until the time that the applicant's participation in the program ends.

R18-7-502. Application Fee A.R.S. § 49-179(A) requires that a nonrefundable application fee accompany each program application. In these rules, the Department is proposing to use the application fee as a tool to ensure that the Department recovers the costs of reviewing an application, requesting any necessary additional information, determining the applicant's eligibility to participate in the program and providing other application-related services, as needed. Proposed R18-7-502 establishes an application fee in the amount of \$2,000.00.

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Under the proposed rules, the applicant pays the application fee when the application is submitted. The application is not complete until the fee is submitted or, in the case of a small business requesting the accommodation provided under R18-7-502(D), until the Department and the applicant agree upon a payment schedule. The Department will not review the application until the application is complete.

As required under A.R.S. § 49-179(A), the application fee is nonrefundable. Applicants, whether their applications are approved or denied, will not receive a refund of all or any part of the application fee. Application fees will not be refunded to applicants that withdraw or are terminated from the program. Applicants paying application fees in installments under R18-7-502(D), whose applications are denied or who withdraw prior to satisfying their payment arrangements, are liable for any unpaid installments.

To the extent possible, given the statutory requirement of a nonrefundable application fee, this rulemaking does not establish program fees that exceed the Department's costs incurred in providing program services. Under proposed R18-7-507, at the time that the applicant's participation in the program ceases, the Department will perform an account reconciliation to determine the total of the reimbursable costs incurred by the Department in relation to the applicant's site and the total amounts submitted or paid by the applicant during the course of the project. The total of submissions and payments will include the application fee. If the reconciliation shows that the costs exceeded the submissions and payments, the applicant will be responsible for paying the difference. If, however, the reconciliation shows that the submissions and payments exceeded the costs, the Department will return the difference, but only to the extent that the Department's total costs equal or exceed the statutory application fee amount of \$2,000.00. Thus, although the application fee will never be refunded, it will serve as a credit against costs to the extent allowable under the statute. A more complete explanation and examples of the final reconciliation process are included in the explanation of R18-7-507.

The Department's decision to limit program fees to recovery of program costs is intended to reflect the intent, if not the specific language, of A.R.S. § 49-179. A.R.S. § 49-179(A) authorizes the Department to charge a nonrefundable application fee. A.R.S. § 49-179(B) authorizes a fee that reimburses the Department for its program costs. In theory, the Department could charge both fees. Arguably, this approach would enhance the sustainability of the program. The approach would also increase program costs for most participants and could result in the collection of fees that exceed the Department's goal of achieving a sustainable program. It is the Department's view that the legislature intended that the Department recover its costs, not realize a profit. The Department, however, welcomes comments addressing the proper role of the application fee in the development of a sustainable program.

In the process of drafting these proposed rules, the Department considered application fee amounts ranging from \$1,500.00 to \$3,000.00. Based on the Department's prior experience, an application fee amount of \$2,000.00 will be sufficient to ensure that application-related costs are recovered in all cases, but will not be excessive. In most instances (those in which the Department's reimbursable costs equal or exceed \$2,000.00), the application fee amount will be credited, ultimately, against the reimbursable costs incurred. These costs will include the actual costs of the application-related services provided. In these instances, the applicant will reimburse the Department only for actual costs incurred and the application fee amount will impact only applicants' cash-flow. The Department anticipates that it will rarely incur total project costs of less than \$2,000.00. In those instances, the application fee amount will function as a flat fee based on the Department's best estimate of the amount necessary to ensure the recovery of all application-related costs.

The Department also considered the option of establishing a "two-tiered" application fee. This approach would have required that applications involving the remediation of groundwater, as opposed to soil sites and landfills, be subject to a higher application fee amount. Program management has noted that groundwater sites historically require a greater expenditure of Department resources. This suggests that fairness might require that groundwater sites pay a proportionally higher application fee. Under the proposed rules, however, most program participants will reimburse the Department for its expenditure of resources under the hourly reimbursement rate proposed in R18-7-504. Therefore, a "two-tiered" application fee is not justified by considerations of fairness. In this rulemaking, the Department is proposing that the application fee be a uniform single amount for all sites.

The proposed rule provides for an accommodation for small businesses for which the advance payment of a \$2,000.00 application fee may present a hardship. Although A.R.S. § 49-179(A) precludes the Department from waiving the application fee, the proposed rule would allow for small businesses, as defined under A.R.S. § 41-1001, to negotiate a schedule for payment of the application fee over time. For all other applicants the application fee will be due, in full, at the time that the application is submitted.

R18-7-503. Deposit A.R.S. § 49-179(C) authorizes the Department to require an applicant to pay advance deposits to be applied against the Department's reimbursable costs. Under proposed R18-7-503, the Department will establish a deposit account for each remediation project. At the time that an approved applicant submits a work plan or a request for a no further action determination, the applicant will submit an initial deposit in the amount of \$4,000.00. This amount is based on the historic average cost of oversight under the voluntary remediation program adjusted to reflect the proposed increase in the hourly reimbursement rate. As costs are incurred and charged against the applicant's deposit account, the Department may require the applicant to submit additional deposits of \$4,000.00 or less to cover the additional anticipated costs of program services. Applicants will be required to maintain an account balance sufficient to cover anticipated program costs or face the risk of suspension of program services and termination from the program. At any time that participation in the program ends due to completion of the remediation, termination, or withdrawal, the Department will perform an account reconciliation and issue a final statement that includes a final amount due to or from the applicant. Amounts due from the applicant are payable within 30 days. Amounts due to the applicant will be returned to the applicant.

The Department recognizes that its proposed advance deposit process requires program participants to pay for services before these services are provided. The purpose of this advance payment requirement is to eliminate the costs that would result from late-payment and non-payment of amounts due. Although A.R.S. § 49-179 does not preclude reimbursement of these costs from program participants, recovery of late-payment and non-payment costs under the hourly reimbursement rate would place an unfair burden on the participants who pay their bills in a timely manner.

R18-7-504. Voluntary Remediation Program Fees R18-7-504(A) implements the provisions of A.R.S. § 49-179(B) and A.R.S. § 49-179(C) relating to reimbursement of program costs under the hourly reimbursement rate established in R18-7-505. This subsection also provides a non-exclusive list of program costs that are reimbursable at the hourly rate.

R18-5-504(B) implements the provisions of A.R.S. § 49-179(C) relating to reimbursement of the cost of goods and services contracted by the Department and the provisions of A.R.S. § 49-179(D) relating to reimbursement of the costs of work performed under contracts. This subsection also includes a non-exclusive list of these goods and services.

R18-7-505. Hourly Reimbursement Rate

This Section establishes a proposed reimbursement rate of \$110.00 per hour. This rate was obtained by dividing the projected reimbursable costs for fiscal years 2001-2004 by the number of hours projected for providing program services in fiscal year 2001-2004 under the current program staffing. The results were rounded to the nearest whole dollar. These calculations assume annual increases in program salaries of approximately 2% and an increase in program applications from 25 in FY 2001 to 31 in FY 2004. The formula for determining the rate is discussed in greater detail in the Economic Impact Statement required under Question #9.

R18-7-506. Voluntary Remediation Program Accounting A.R.S. § 49-179 requires that the Department provide applicants with documentation supporting its claims for reimbursement consistent with generally accepted accounting principles. The Department is proposing that it provide program participants with quarterly statement itemizing reimbursable costs.

R18-7-507. Account Reconciliation

Upon completion of the remediation project or upon termination or withdrawal from the program, the Department will determine the total amount of site-specific reimbursable costs incurred by the Department during the course of the project and the total amount submitted as deposits by the applicant and applied by the Department to the applicant's site-specific deposit account during the course of the project, plus the amount paid by the applicant as an application fee. The Department will prepare, and fax or mail to the applicant, a final statement which will show the reimbursable costs, the total of the amounts submitted and paid, and the final amount due to or from the applicant.

If the final statement shows that the amounts submitted or paid during the course of the project are less than the Department's reimbursable costs, the applicant will pay the difference between the costs incurred and the amounts submitted or paid. If the final statement shows that the amounts submitted or paid during the course of the project are more than the Department's reimbursable costs and the Department's reimbursable costs exceed the nonrefundable application fee amount of \$2,000.00, the Department shall return to the applicant the difference between the amounts submitted or paid and the costs incurred. If the final statement shows that the amounts submitted or paid during the course of the project are more than the Department's reimbursable costs and the Department's reimbursable costs total \$2,000.00 or less, the Department shall retain the applicant's nonrefundable application fee of \$2,000.00 and return to the applicant the amount of any deposits submitted. The Department may withhold any program approval or no further action determination until the applicant has paid any amount due and payable under the final statement.

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The following examples are intended to demonstrate the final reconciliation process.

Example 1. The applicant pays the application fee of \$2,000.00 as required and submits a work plan and an initial deposit of \$4,000.00. Three months later, the project manager requests and the applicant submits an additional deposit of \$3,000.00. The amount of the additional deposit is based on the project manager's estimate of the costs that will be incurred in completing the remediation project. Two months later, the applicant completes the remediation work described in the work plan and submits a request for a no further action determination. The Department reviews and approves the no further action determination request. The reimbursable costs incurred during course of the project total \$7,500.00.

The Department will perform a final reconciliation of total costs (\$7,500.00) and total amounts submitted or paid (\$9,000.00) and will issue a final statement showing an amount due to the applicant of \$1,500.00. This amount will be returned to the applicant and the Department will issue its no further action determination.

Example 2. The same facts as in example 1, except that reimbursable costs incurred during course of the project total \$10,000.00.

The Department will perform a final reconciliation showing total costs of (\$10,000.00) and total amounts submitted or paid (\$9,000.00) and will issue a final statement showing an amount due from the applicant of \$1,000.00. This amount must be paid within 30 days. The Department will issue its no further action determination upon receipt of the total amount due.

Example 3. The applicant pays the application fee of \$2,000.00 as required and submits a work plan and an initial deposit of \$4,000.00. 1 month later, the applicant withdraws from the program. The reimbursable costs incurred during course of the project total \$2,500.00.

The Department will perform a final reconciliation of total costs (\$2,500.00) and total amounts submitted or paid (\$6,000.00) and will issue a final statement showing an amount due to the applicant of \$3,500.00. This amount will be returned to the applicant. Due to the fact that the applicant withdrew from the project, it is unlikely that a no further action determination would be appropriate.

Example 4. The same facts as in example 3, except that reimbursable costs incurred during course of the project total \$1,500.00.

The Department will perform a final reconciliation of total costs (\$1,500.00) and total amounts paid or submitted (\$6,000.00) and will issue a final statement showing an amount due to the applicant of \$4,000.00. Since the reimbursable costs are less than the required \$2,000.00 application fee, the amount returned to the applicant will be the difference between the amounts submitted or paid and \$2,000.00.

Example 5. The applicant pays the application fee of \$2,000.00 as required and withdraws from the program. The reimbursable costs incurred during course of the project total \$1,500.00.

The Department will perform a final reconciliation of total costs (\$1,500.00) and total amounts paid or submitted (\$2,000.00) and will issue a final statement showing that no amount is due to or from the applicant.

- 7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material.**

None

- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable, because this rule will not diminish a previous grant of authority of a political subdivision of this state.

9. The preliminary summary of the economic, small business, and consumer impact:

Executive Summary

This rule will allow ADEQ to assess and collect fees for its review, approval and oversight of Voluntary Remediation Program (VRP) work plans and reports submitted by owners of contaminated sites. **SB 1454 authorized the Department to recover all its costs, both direct and indirect, for running the program.** Since the program's inception in 1996, fee revenues have covered only a portion of the total program budget, and subsidies from other funding sources have been used to defray a substantial portion of program costs. The legislation mandated that all subsidies must cease by 2004; thus, ADEQ is proposing a new fee structure for full cost recovery. The new fee structure will consist of an application fee, and a deposit amount from which will be extracted an hourly rate charge for site-specific work carried out by VRP staff. The new fees will be levied on all property owners submitting applications after the effective date of this rule. Between now and the rule's effective date, property owners of existing or **active** sites (those currently in the program and whose remediation is not completed) are being given the option to either stay in the program and pay the current fee rate (the average is \$42 per hour); or apply to participate in the new program after December 1. Active site owners will be exempt from the payment of the \$2,000.00 application fee, if they apply to the new program before the effective date of this rule. If they choose to participate in the new VRP, they will pay the new fee rate after the effective date of this rule.

New Fee Structure

When a property owner files a new application to participate in the VRP, ADEQ proposes to charge a non-refundable **application fee of \$2,000**. The application fee will ensure that the Department recovers its costs associated with the process of determining the applicant's eligibility for participation in the program, its pre-application costs, as well as indirect costs such as those incurred when responding to the public's request for information about the program. After ADEQ's acceptance of the application, the applicant will pay a deposit in the amount of **\$4,000** for VRP services to be rendered by ADEQ staff. The deposit amount is a little less than the average amount paid to ADEQ by VRP site owners in the past for closed (soil only) sites. The Department will charge a reimbursement rate of **\$110 per hour**, and draw on the deposit amount as ADEQ work is carried out. As work proceeds and the deposit amount is depleted, ADEQ will bill the applicant for an additional deposit of \$4,000 whenever the balance of the site-specific account falls below \$1,000 and the program manager estimates that the amount remaining in the account will not be sufficient to cover the costs that will be incurred. The deposit amount represents slightly over 36 hours of billable work. The additional deposit will be due 30 days after being notified by ADEQ. If not received within 30 days, ADEQ will send a second notification, informing the applicant that if the deposit is not received within an additional 60 days of the second notification, the site may be terminated from the VRP. This is to ensure that there will be uninterrupted service at a site.

After remediation is completed and the site is closed (but before the **No Further Action** determination is issued), ADEQ will either bill the property owner for any amounts outstanding, or refund any project-specific deposit amount that was not utilized. The application fee will be added to the deposit fee towards the completion of the project, and ADEQ's billable hours will be charged against this sum. ADEQ will provide a detailed description of the billed amounts, so that the property owner is fully informed of how the money was spent. Apart from project-specific ADEQ staff technical plan review, inspections and program oversight, billed amounts will cover other applicable expenses such as laboratory analysis charges, any contract work performed and public involvement costs, including facility rental and public notice advertising. Contract work shall be charged, as long as the contract rate is less than or equal to the rate charged for time spent by ADEQ employees, or where the applicant has agreed to reimburse ADEQ for the work performed by an outside consultant. ADEQ anticipates that this is likely to occur when the applicant establishes a tight deadline for the review of the work plan, so that the deadline can only be met by hiring a private consultant.

Transition Funding

At the start of fiscal years ending 2001 through 2004, an amount (up to \$350,000) will be transferred from WQARF into the Voluntary Remediation Fund (VRF) as provided by A.R.S. § 49-187(A)(5), to provide the initial "seed money" to operate the program. The VRF will be reviewed at the start of the fiscal year, and any shortfall between the existing fund balance and \$350,000 will be transferred from WQARF on that date, until July 1, 2003. During this time, the Department will use application fees, deposits and other reimbursements (as specified above) from the VRF to demonstrate financial sustainability of the new program. Under optimum conditions, the goal is to refrain from transferring any money from WQARF during this period. However, ADEQ recognizes that there will be a funding gap between July 18, 2000 (which is when the new VRP came into existence) and the effective date of this rule. ADEQ anticipates that transitioning active sites into the new program will take time.

The Voluntary Sites Unit

The VRP is administered by the Waste Programs Division's Voluntary Sites Unit (VSU) which is staffed by one Unit Manager, one Hydrologist and one Environmental Program Specialist. Their time is allocated to project-specific and non-project specific work activities. The ADEQ Office of Fiscal Services uses the terms "billable" and "non-billable" hours to refer to project-specific and non-project specific work activities. Billable hours pertain to activities that are directly attributable to a specific site; non-billable hours, to other necessary activities such as staff meetings, training, coordination with other ADEQ programs, meetings with other VRP applicants, drafting of policies, procedures and guidance documents, and staff leave time.

The Waste Programs Division has determined that the three FTEs will be able to collectively allocate 2,400 billable hours per year to the program, calculated on the basis of 960 each for the two project managers and 480 hours of the Unit Manager's time. A large portion of the Unit Manager's time is also devoted to program development. The block of billable hours represents 38.5% of total annual work hours (6,240 or 2,080 per FTE). Two other staff members in the VSU are engaged in program development, but their salaries are currently being paid from an EPA VCP Core Grant, and their work is therefore not included in the calculated hourly rate.

The projected VSU budget for the fiscal year ending June 30, 2001 is \$250,828. The aggregated sum for FYE 2001 through 2004 is \$1,034,058. Not included in the budget is a series of site-specific non-personnel cost items which are billed directly to the property owners as "pass through" costs. (Please see Appendix A for a narrative description of the budget items, and for an identification of what are direct and indirect costs.) The annual budget amount and the planned annual allocation of project-specific hours are the two variables used for calculating the VRP fee hourly rate. The aggregated VSU budget amount divided by 9,600 hours (2,400 hours per year) yields \$110 per hour (rounded to the nearest ten dollars). **This rate represents a shift from a heavily subsidized to a totally unsubsidized fee rate,** and would enable the Department to recover all of its costs, assuming the VSU will be able to carry out full utilization of the program's block of billable hours. If the incoming workload is more than the unit can reasonably handle, a new project manager will be hired, but the Department does not anticipate that this will happen this fiscal year.

A fee increase from \$42 per hour to \$110 constitutes an hourly rate increase of 162%. The necessity for a fee increase of such magnitude and the billing methods the Department plans to implement, are dictated by the statutory mandate to end all funding subsidies that have been available to program participants in the past; and to a more limited extent, the problems of cost recovery.

The Current VRP Program

The current program began in 1996, although relatively good cost recovery data have been collected only since 1998. Table 1 below shows the VSU budget for fiscal years ending 1998 through 2000 broken down by personnel services, employee-related expenses and indirect costs. The VRP revenues collected for the corresponding years is also shown, indicating that as of the end of June, 2000, the Department has been able to recover only 20.5% of its budgetary costs. This means that only 20% of ADEQ's costs were reimbursed by participants in the program, and about 80% of the budget had to be covered by the authorized subsidies. The Department's unreimbursed expenditures during the last three years are indicated in Table 1 as the **deficit**. The size of the deficit helps to explain the percent change in the proposed fee rate. In addition, ADEQ has been able to recover costs for only 32 out of the 45 closed sites. Some site owners have contested the amounts billed, others have negotiated the amounts they paid, and still others have been referred to the Attorney General's Office, or are in litigation. ADEQ is still awaiting payment of another \$25,000 in billings that have been sent out for VRP work that was carried out in FY 2000, and an estimated 250 hours of work has yet to be billed.

Table 1.				
ADEQ Voluntary Site Unit Budget				
Fiscal Years 1998-2000				
	1998	1999	2000	Total:
Personnel Services	\$120,600	\$126,400	\$132,700	\$379,700
ERE*	\$25,300	\$26,500	\$27,900	\$79,700
Indirect	\$71,900	\$75,400	\$82,300	\$229,600
Total:	\$217,800	\$228,300	\$242,900	\$689,000
Revenue	\$29,652	\$41,974	\$69,717	\$141,343
Collected				
Deficit	\$188,148	\$186,326	\$173,183	\$547,657
% of Budget:	86.39%	81.61%	71.30%	79.49%
*Employee	Related			
Expenses				

Table 1 also enables the calculation of the budget percent change: between FYE 1998-99, it was +4.8%; and between 1999-2000, +6.4%. The expected change between 2000-2001 is +3.3%. Revenues collected have increased during the period, but the deficit levels as a percent of the budget have remained high. Two other things might be inferred from Table 1:

1. The cost recovery data from 1998 to 2000 pertain to 32 sites (an average of \$4,400 per site), although ADEQ work has been expended for 45 closed sites. Even when site owners have paid their bills, these were not always paid in full; and the Department continues to spend resources for some cases including those involving litigation. The cost recovery record provides ample justification for the Department to charge the proposed deposit fee.
2. The data also yield an estimated 4,204 (or an average of 1,401 hours per year) expended by VSU staff on billable activities. This represents a utilization rate of 58.4% of the total block of billable hours that the VSU has committed to. This utilization rate could be reflective of the voluntary nature of the program, which means that a much higher utilization rate will need to be carried out if the VRP is to become financially viable. This should not be difficult to achieve inasmuch as there are 45 active sites, and the Unit Manager has estimated between 30 and 35 new applicants per year for the program. Table 2 below shows where the active sites are located. It indicates that contaminated sites are predominantly an urban problem. The urban counties of Maricopa and Pima have 62.2% of the sites, and the rural counties have 37.8%.

Table 2.		
County Location of		
Active VRP Sites		
		%
Apache	0	
Cochise	2	4.4%
Coconino	0	
Gila	1	2.2%
Graham	0	
Greenlee	2	4.4%
La Paz	1	2.2%
Maricopa	18	40.0%
Mohave	0	
Navajo	2	4.4%
Pima	10	22.2%
Pinal	4	8.9%
Santa Cruz	0	
Yavapai	2	4.4%
Yuma	3	6.7%
Total:	45	100.0%

Proposed Hourly Rate

By proposing an hourly rate of \$110, the Department intends to recover all of its reasonable direct and indirect costs. Since the statutory mandate is for the program to be fully self-supporting, this rate may be adjusted after the transition period ends on June 30, 2004. Between now and then, ADEQ will track the data needed to establish the annual budget, the block of billable hours and the cost recovery rates so that a reasonable fee structure can be developed in case this proposal does not meet the Department's and VRP participants' expectations.

The Voluntary Remediation Fund will be managed by ADEQ as a revolving fund, i.e., any amounts leftover in the fund at the end of one fiscal year will be carried over into the next year during the transition period, to cover the VRP's expenditures, and will not revert to any other ADEQ or state fund.

Parties That Will Be Impacted By This Rule

1. ADEQ is the implementing agency for this rule. By increasing its fee rate, ADEQ will be able to charge for the full costs of administering the program. The revenues to the Department are therefore expected to increase, but only for cost recovery purposes.
2. All new VRP applicants and Active Site Owners after Dec.1, 2000 --

Site owners may be private or public sector landowners. Political subdivisions of the State (counties or municipalities and other government entities) that own contaminated sites and apply to participate in the VRP will pay the same fees as private landowners. Table 3 below lists the major industrial classifications of active site owners. It shows that most of the active sites are farms and railroad facilities (classified as TPUs). Of the 6 government sites, two are owned by the federal government; two, by municipalities; and the other two, by quasi-government entities or districts. Active site owners will pay the same reimbursement fee rates that will be charged all new VRP applicants after the effective date of this rule.

Table 3.		
Active Sites by Census Standard		
Industrial Classifications		
		%
Agriculture	12	26.7%
Mining	3	6.7%
Construction		
Manufacturing	8	17.8%
TPU *	15	33.3%
Wholesale Trade		
Retail Trade		
FIRE **		
Services	1	2.2%
Government	6	13.3%
Total:	45	100.0%
* Transportation & Public Utilities		
** Finance, Insurance & Real Estate		

The proposed rule will increase the burden on VRP participants who will be paying the full (i.e., unsubsidized) costs of the program. But it should be argued that they also reap the main economic benefits of the rule. Among these benefits are those carried by the NFA.

3. Private sector consulting companies with expertise in environmental remediation – These companies will benefit if their services are needed and VRP applicants or site owners hire them to develop remedial action plans or carry out remediation work. According to the 1997 US Economic Census, there were 5,714 establishments in Arizona providing engineering and management consulting services. (Business owners may own more than one establishment.) 87.3% of these establishments are located in the urban counties of Maricopa and Pima.

The more highly specialized work of environmental remediation is carried out by a small subset of these consulting companies. In the last fiscal year, ADEQ had 19 contractors listed in its Arizona Superfund Response Action Contract (ASRAC). Contractors develop and implement WQARF remedial action plans. The same contractors may be used by VRP site owners. The Price Schedule Matrix for remediation of pollutants (ADEQ Contract No. 99-0017) shows contractor average hourly rate charges for three types of services: professional personnel (levels I through VI); field services (levels I through managerial); and support services (levels I through III). What the site owners pay for work done represents fees for all three types of services rendered.

Table 4. Average Hourly Rates of 19 WQARF Contractors			
Levels	Professional	Field Services	Support Services
I	\$54	\$39	\$34
II	\$62	\$47	\$43
III	\$72	\$54	\$50
IV/Field Mgr.	\$84	\$64	
V	\$101		
VI	\$115		

The costs of remediating a site would vary with site conditions, the types of contaminants found, the clean up levels chosen and the kinds of professional and other services required to do the job. These costs, which are borne by the site owners, represent income to private contractors. Obviously, the sooner (fewer hours) clean up is done at a site, the lower the costs, if the *ceteris paribus* assumption applies.

4. Arizona and Federal Taxpayers – Although the VRP program is shifting from a heavily subsidized to a fully unsubsidized program, the cost burden on the taxpayers at large will remain the same. Site owners will now pay for the full costs of remediation, and the financial burden on the WQARF as a fund will be diminished. However, the money saved will remain in WQARF, and will continue to be allocated for this fund's implementation.

Benefits of the Rule

Remediation constitutes the elimination or reduction of contaminants in the environment that are known threats to public health. There are clear health benefits that the public enjoys when remediation occurs, including the possible reduction of human exposure to well-known diseases like cancer. But apart from the public health benefits, owners of sites whose remediation is completed are able to either develop or sell their properties according to their "highest and best use," as dictated by market forces. This can result in tremendous financial returns to property owners, and spur development, business investment and job creation. The costs of remediation should therefore be regarded as an investment in public health and disease prevention for the long-term, as well as an investment in the land with a view toward maximizing the owners' property values. While, at this stage, the benefits to public health cannot be quantified in dollar terms, the ADEQ economist is researching the probable increase in property values of three closed sites whose owners were participants in the VRP program. This will be fully covered in the rule's final EIS.

APPENDIX A – Description of the Voluntary Remediation Program Budget

SB 1454 granted ADEQ the authority to recover all its direct and indirect costs for running the VRP. Billable and non-billable costs are used interchangeably to refer to project-specific and non-project specific costs. Direct costs are billed directly to the owner of a specific site, and indirect costs are factored into the Voluntary Site Unit budget during each budget cycle so that the hourly reimbursement rate can be calculated. The following describes what budget items constitute direct and indirect costs.

1. Direct Costs -- These are costs that are incurred by ADEQ that relate to a specific site. These consist of personnel costs which are salaries of VSU staff, plus employee related expenses (ERE) and agency overhead. In addition, there are non-personnel costs directly billed to the client.

(A) Salaries for the VSU staff consist of those for a Unit Manager (Grade 22), a Hydrologist III (Grade 21) and an Environmental Program Specialist (Grade 20). Employee related expenses are: worker's compensation, unemployment, FICA, health insurance, dental insurance, and life insurance. Annual ERE is calculated as a percentage of annual salaries and is fixed for each budget cycle by the State Office of Strategic Planning and Budget (OSPB) and the Joint Legislative Budget Committee (JLBC). For the current fiscal year, the ERE rate is 23.03% of annual salary.

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Personnel working less than 19 hours per week are not covered by health insurance, dental insurance or life insurance.

Agency overhead includes computer maintenance, office rent, utilities, copy machine contract, phone service, and agency activities such as planning, billing (including cost recovery), and payroll. The agency overhead rate (which ADEQ negotiates at regular intervals with the Environmental Protection Agency) is currently 51.24% of the combined salary plus ERE of ADEQ staff.

(B) Non-Personnel costs that are billed directly to the client are site-specific costs that may or may not be incurred, depending on the circumstances of each VRP case. These are also known as variable costs, which are for services that are passed through to the client, but only if they are incurred. These may consist of Attorney General fees, outside contractors' work for expedited review or risk assessment review, laboratory analyses, public notice fees (including advertising) and travel costs. These are explained as follows:

- Risk assessment is required to assure that risk-based remediation targets are safe concentrations, at the expected level of human exposure.
- Expedited review by an outside contractor is allowed if the client requests it, and agrees to pay the cost of the outside contractor.
- The attorney general may be asked for an interpretation related to a specific site, or to address a dispute between the Department and the client.
- Split samples for laboratory analyses may be taken by the Department and analyzed to verify the client's findings.
- Public notice is required when a cleanup level that is above residential levels is proposed.
- Travel costs, such as transportation and hotel expenses for a specific site are also billed directly to the client, and are included in this category.

2. Indirect costs are all other program costs that cannot be ascribed to a specific site. Expenses that are not directly billed, but that must be recovered, include costs for public outreach and advertising, staff training, Code of Federal Regulations publications, in-state travel, medical monitoring, replacement of personal computers and operating supplies (for postage, photographs, etc.). These are also known as other operating expenses.

Medical monitoring is required by OSHA for any person who spends more than a certain amount of time each year on potentially-contaminated sites. Generally medical monitoring consists of blood chemical analysis and a physical stress (treadmill) test. VRP project managers who spend about 960 hours on site-specific activities are required to undergo medical monitoring. The Environmental Program Supervisor, who spends about half that time on site-specific work, does not have to undergo medical monitoring.

The VRP budget for a fiscal year includes direct cost items for 1(A) and all indirect costs indicated in 2 above. Direct cost items in 1(B) are not included in the budget, but are passed through to the clients directly.

10. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact:

Name: Mila Hill
Address: 3033 North Central Ave., 8th Floor
Phoenix, Arizona 85012
Telephone: (602) 207-4435
Fax: (602) 207-2251
TTD: (602) 207-4829

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11. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: November 28, 2000
Time: 4:00 p.m.
Location: Arizona Department of Environmental Quality
Room 1709
3033 North Central Avenue
Phoenix, Arizona

Date: November 30, 2000
Time: 2:00 p.m.
Location: Arizona Department of Environmental Quality
Southern Regional Office
400 West Congress, Suite 444
Tucson, Arizona

Written comments will be accepted through December 15, 2000, at 5:00 p.m. Written comments should be addressed to Craig Salminen, Arizona Department of Environmental Quality, 3033 North Central Avenue, M0836A, Phoenix, Arizona 85012-2809.

11. Any other matters prescribed by statute that are applicable to the specific agency or any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 7. DEPARTMENT OF ENVIRONMENTAL QUALITY - REMEDIAL ACTION

ARTICLE 4. ~~VOLUNTARY REMEDIATION PROGRAM~~ GREENFIELDS PILOT PROGRAM

ARTICLE 5. VOLUNTARY REMEDIATION PROGRAM

Sections

<u>R18-7-501.</u>	<u>Definitions</u>
<u>R18-7-502.</u>	<u>Application Fee</u>
<u>R18-7-503.</u>	<u>Deposit</u>
<u>R18-7-504.</u>	<u>Voluntary Remediation Program Reimbursement</u>
<u>R18-7-505.</u>	<u>Hourly Reimbursement Rate</u>
<u>R18-7-506.</u>	<u>Voluntary Remediation Program Accounting</u>
<u>R18-7-507.</u>	<u>Account Reconciliation</u>

ARTICLE 4. ~~VOLUNTARY REMEDIATION PROGRAM~~ GREENFIELDS PILOT PROGRAM

ARTICLE 5. VOLUNTARY REMEDIATION PROGRAM

R18-7-501. Definitions

The following definitions shall apply in this Article, unless the context otherwise requires:

“Applicant” means a person who participates in the voluntary remediation program. Participation in the voluntary remediation program begins when the Department receives an application under A.R.S. § 49-173 and continues until any one of the following occurs:

The Department grants the applicant’s request for a no further action determination.

The applicant provides the Department with notice of the applicant’s intent to withdraw from the program.

The Department terminates the applicant’s participation under A.R.S. § 49-178(B).

“Department” means the Arizona Department of Environmental Quality.

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“Voluntary remediation program” means the program authorized under A.R.S. Title 49, Chapter 1, Article 5.

R18-7-502. Application Fee

- A. At the time of filing an application to participate in the voluntary remediation program, the applicant shall pay a nonrefundable application fee in the amount of \$2,000.00.
- B. The application fee shall be in the form of a company check, cashier’s check, certified check, or money order made payable to the Arizona Department of Environmental Quality.
- C. Except as provided in subsection (D), an application does not meet the requirements in A.R.S. § 49-173 unless accompanied by the application fee. The Department shall not review an application until the application fee is paid in full.
- D. At the request of an applicant that is a small business as defined under A.R.S. § 41-1001, the Department may review and approve an application upon receipt of a partial payment of the application fee in an amount approved by the Department and an agreement to pay the remainder of the fee in scheduled installments.
- E. An applicant that withdraws or is terminated from participation in the voluntary remediation program may reapply to the program by submitting an application that meets the requirements of A.R.S. § 49-173, including payment of the application fee.

R18-7-503. Deposit

- A. At the time that an eligible applicant submits a work plan under A.R.S. § 49-175 or a report under A.R.S. § 49-181, the applicant shall submit to the Department an initial deposit of \$4,000.00.
- B. The deposit shall be in the form of a company check, cashier’s check, certified check, or money order made payable to the Arizona Department of Environmental Quality.
- C. The Department shall begin review of the applicant’s work plan or the report submitted under A.R.S. § 49-181 upon receipt of the initial deposit.
- D. Upon receipt of the initial deposit, the Department shall establish a site-specific deposit account identified by a unique account number. The Department shall charge all incurred reimbursable costs attributable to the applicant’s site against the site-specific deposit account.
- E. If, at any time during the applicant’s participation in the program, the balance in the site-specific deposit account falls below \$1,000.00 and the Department reasonably estimates that the reimbursable costs chargeable to the account will exceed the amount available in the account, the Department shall mail or fax a written request that the applicant submit an additional deposit in an amount not to exceed \$4,000.00. The Department may request any number of additional deposits, in amounts of \$4,000.00 or less, at any time that the conditions of this subsection are met.
- F. If any requested additional deposit is not received within 30 days after the Department mails or faxes the request in subsection (E) and the Department determines that the applicant’s site specific account balance is insufficient to support continued program participation, the Department shall mail a written notice of deficiency under A.R.S. § 49-178 and shall notify the applicant that work on the site may be suspended until the additional deposit is received. If the Department does not receive the requested additional deposit within 60 days after the notice of deficiency is mailed or faxed and the applicant does not dispute the Department’s determination that the site specific account balance is insufficient to support continued program participation, the Department may terminate the applicant’s participation in the program. An applicant whose participation is terminated under this subsection may reapply to the program as provided in R18-7-502(E).

R18-7-504. Voluntary Remediation Program Reimbursement

- A. The applicant shall reimburse the Department, at an hourly reimbursement rate established under R18-7-505, for time spent by voluntary remediation program technical staff on activities specifically related to the applicant’s site, including the following:
 - 1. Review of the application submitted under A.R.S. § 49-173, including review of any modifications requested by the Department under A.R.S. § 49-173(A) or additional information requested under A.R.S. § 49-173(B).
 - 2. Review of the work plan submitted under A.R.S. § 49-175, including review of any modifications requested by the Department under A.R.S. § 49-177 or § 49-180.
 - 3. Review of progress reports submitted as part of a work plan as requested by the Department under A.R.S. § 49-177 or § 49-180.
 - 4. Consideration by the Department under A.R.S. § 49-176(D) of written comments submitted in response to a public notice providing an opportunity to comment or a public meeting.
 - 5. Participation in public hearings required by the Department under A.R.S. § 49-176(D).
 - 6. Site inspections under A.R.S. § 49-177 and site investigations under A.R.S. § 49-181, including time spent in travel to and from the site.
 - 7. Review of the report and request for a no further action determination submitted under A.R.S. § 49-181, including review of any modifications requested by the Department.
 - 8. Time spent in reviewing a request submitted under A.R.S. § 49-182 for approval of a remedial action under A.R.S. § 49-285.
 - 9. Time spent in meetings or discussions requested by the applicant or the Department.

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B. The applicant shall reimburse the Department for the site-specific costs of goods and services contracted by the Department including:

1. Reasonable and necessary attorneys' fees billed to the Department by the Attorney General for legal services, including legal fees billed for representation in regard to appeals or dispute resolution under A.R.S. § 49-185.
2. Costs incurred by the Department for work provided under a contract described in A.R.S. § 49-179(D)(1) or A.R.S. § 49-179(D)(2).
3. Reasonable and necessary travel costs incurred in the performance of activities described in subsections (A)(5), (A)(6) or (A)(9) or performed at the request of the applicant.
4. Other reasonable site related expenses documented in writing by the Department.

R18-7-505. Hourly Reimbursement Rate

The hourly reimbursement rate is \$110.00 per hour.

R18-7-506. Voluntary Remediation Program Accounting

A. Within a reasonable time after the end of each calendar quarter, the Department shall mail or fax each applicant a statement itemizing reimbursable costs charged against the site-specific deposit account and a summary of account activity during that quarter. The statement shall be in a form consistent with generally accepted accounting principles.

R18-7-507. Account Reconciliation

A. Within a reasonable time after completion of the remediation work at the site, or after termination or withdrawal of the applicant from participation in the program, the Department shall prepare and mail or fax to the applicant a final statement which shall include:

1. An itemization of site-specific reimbursable costs incurred by the Department but not previously reported in a quarterly statement.
2. The total amount of site-specific reimbursable costs incurred by the Department during the course of the project, including the costs reported in subsection (A)(1).
3. The total amount submitted as deposits by the applicant and applied by the Department to the applicant's site-specific deposit account during the course of the project, plus the amount paid by the applicant as an application fee.

B. If the final statement shows that the amounts submitted or paid during the course of the project are less than the Department's reimbursable costs, the applicant shall be responsible for and shall pay, within 30 days after receipt of the final statement, the difference between the costs incurred and the amounts submitted or paid.

C. If the final statement shows that the amounts submitted or paid during the course of the project are more than the Department's reimbursable costs and the Department's reimbursable costs exceed \$2,000.00, the Department shall return to the applicant, within a reasonable time period, the difference between the amounts submitted or paid and the costs incurred.

D. If the final statement shows that the amounts submitted or paid during the course of the project are more than the Department's reimbursable costs and the Department's reimbursable costs total \$2,000.00 or less, the Department shall retain the applicant's nonrefundable application fee of \$2,000.00 and shall return to the applicant the amount of any deposits submitted.

E. The Department may withhold any program approval or no further action determination until the applicant has paid any amount due and payable under the final statement.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

PREAMBLE

1. Sections Affected

R20-2-701
R20-2-751
R20-2-759
R20-2-760
Table 1
Table 2

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend

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2. The specific authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 41-2065(A) and 41-2124(J)

Implementing statutes: A.R.S. §§ 41-2066, 41-2083, 41-2113, 41-2115, 41-2121, 41-2122, 41-2123, and 41-2124

3. List of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening, 6 A.A.R. 3855, October 6, 2000

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Mark Lewandowski or Martha Seaman, Rule Development Section

Address: ADEQ
3033 North Central Avenue
Phoenix, Arizona 85012-2809

Telephone: (602) 207-2230 or (602) 207-2221 (Any ADEQ number may be reached in-state by dialing 1-800-234-5677, and asking for that extension.)

Fax: (602) 207-2251

OR

Name: Mark Ellery
Address: ADWM
4425 West Olive, Suite 134
Glendale, Arizona 85302

Telephone: (623) 463-9942

Fax: (623) 939-7825

5. An explanation of the rule, including the agency's reasons for initiating the rule:

Summary. The Arizona Department of Environmental Quality (ADEQ), in consultation with the Arizona Department of Weights and Measures (ADWM), is proposing changes to the Arizona Cleaner-Burning Gasoline (CBG) rules contained in 20 A.A.C. 2, Article 7. Proposed changes to Tables 1 and 2 would put the rules in accord with Chapter 405, Laws 2000, which eliminated minimum oxygen requirements for summertime CBG. Chapter 405 was enacted in May, 2000. It should be noted that A.R.S. § 41-2124 requires CBG sold between November 1 and March 31 of each year to contain at least 10% of the oxygenate ethanol. The 2000 law and this rulemaking do not change that requirement and have no effect on the Phoenix carbon monoxide nonattainment area's oxygenated fuel requirements. This rule also proposes clarifying changes related to dates that have already passed.

Explanation of changes. Language proposed for deletion in the definition of "CBG covered area" at R20-2-701(8) will no longer be necessary since the Pinal County portions of area A will be added to the CBG covered area beginning January 1, 2001. The date, and the parts of Pinal County to become part of area A were established by SB 1427, enacted in May of 1998.

Language proposed for deletion in the definition of "Type 2 gasoline" at R20-2-701(52) will no longer be necessary since the starting dates for the most recent Type 2 requirements will have passed when this rule becomes final.

The added language in R20-2-751(A)(7) relates to the non-ethanol wintertime minimum oxygenate standard contained in A.R.S. § 41-2123(A)(2). Although HB 2347(1998) limited wintertime oxygenate for CBG to ethanol beginning November 1, 2000, the bill also provided an exception for possible periods of ethanol shortage. The proposed rule keeps the statutory minimum standard of 2.7% oxygen in the rule, but adds clarifying language that indicates non-ethanol oxygenates are allowed only when the cited petition is in effect.

The language proposed for deletion in R20-2-751(B) and (D) will no longer be necessary since the starting date for the most recent wintertime requirements will have passed when this rule becomes final. In R20-2-751(C), the language proposed to be deleted is a starting date (for a general prohibition on Type 1 averaging close to the winter season) that will have passed when this rule becomes final. A related requirement at R20-2-751(I)(4) is proposed to be deleted because it only applied during a period that is now past.

In R20-2-759(C), two ASTM (American Society for Testing and Materials) test methods used for CBG are proposed to be updated to the 1999 editions. ADWM plans to update related incorporations by reference in R20-2-702 in the very near future.

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In R20-2-760(A) and (E)(4), the language proposed to be deleted relates to wintertime NO_x surveys during the 1999-2000 winter season. This language is out of date. The last CBG rule (see 5 A.A.R. 4214, November 5, 1999) ended averaging after September 15, 2000, as well as the need for wintertime NO_x surveys.

Changes in Tables 1 and 2 put the CBG rules in accord with SB 1504. In Table 1, for the April 1 through October 31 oxygen content rows, the minimums in columns A and C would be changed from 2.0% and 1.5%, respectively, to 0.0%. In Table 2, for the April 1 through October 31 oxygen content rows, the *** footnote language referencing a minimum oxygen content of 1.8% has been removed.

The ability of registered suppliers to supply Type 1 CBG during November 1 through March 31 ended on November 1, 2000. (See HB2347, 1998) ADEQ is proposing to insert "N/A" in Table 1 where there are current references to Type 1 winter use.

Language added to a footnote in Table 2, paralleling the clarifying change described above in R20-2-751(A)(7), is a reminder that non-ethanol oxygenates are only allowed during possible periods of ethanol shortage. Other changes in Tables 1 and 2 remove language related to dates that have already passed.

The main purpose of the CBG rules is to reduce volatile organic compounds (VOC), carbon monoxide (CO), and particulate matter (PM₁₀) emissions from vehicle exhaust. This rule will be submitted to EPA as a revision to the SIP when it is final.

6. A reference to any study that the agency proposes to rely on its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

Not applicable

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

I. Rule Identification

Title 20: Commerce, Banking, and Insurance

Chapter 2: Department of Weights and Measures

Article 7: Motor Fuels and Petroleum Products §§ 701, 751, 759, 760, Tables 1 and 2

II. Summary

ADEQ has preliminarily determined that none of the changes in this rule will have any economic impact. Relevant data related to this determination and submitted before the end of the comment period specified in part 10 of this Notice will be summarized and responded to in the Notice of Final Rulemaking.

Elimination of minimum oxygen requirements. As explained more fully in the part 5 of this preamble, proposed changes to Tables 1 and 2 would put the CBG rules in accord with Chapter 405, Laws 2000, which eliminated minimum oxygen requirements for summertime CBG. As such, the proposed rule does not make any changes in addition to what is already effective by state statute.

ASTM updates. ADEQ and ADWM do not believe that updates to two of the ASTM methods cited in R20-2-759(C) will have any significant economic impact on fuel suppliers. The change should make it easier to obtain the cited methods, since older copies are sometimes out of print and more difficult to obtain.

In addition, this rule also proposes the removal of language related to dates that have already passed and requirements that are already in effect. None of these rule changes will have any economic impact.

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9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: David Lillie

Address: ADEQ
3033 North Central Avenue
Phoenix, Arizona 85012

Telephone: (602) 207-4436 (Any extension may be reached in-state by dialing 1-800-234-5677, and asking for that extension)

Fax: (602) 207-2251

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:

Oral Proceeding: 1:30 p.m., November 20, 2000

Close of comment: 5:00 p.m., November 20, 2000

Location: Arizona Department of Environmental Quality, Room 1709, 3033 North Central, Phoenix, Arizona (Please call 602-207-2372 for special accommodations pursuant to the Americans with Disabilities Act.)

Nature: Public hearing with opportunity for formal comments on the record regarding the proposed rules and the submittal of the rules to the Environmental Protection Agency as a revision to the State Implementation Plan.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

American Society of Testing and Materials (ASTM) D4814-99: R20-2-759(C).

American Society of Testing and Materials (ASTM) D5191-99: R20-2-759(C).

13. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

Sections

R20-2-701.	Definitions
R20-2-751.	Arizona CBG Requirements
R20-2-759.	Testing Methodologies
R20-2-760.	Compliance Surveys
Table 1	Type 1 Gasoline Standards
Table 2	Type 2 Gasoline Standards

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

R20-2-701. Definitions

In addition to the definitions in R20-2-101, the following definitions apply to this Article unless the context otherwise requires:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. "CBG covered area" means:

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- a. ~~Before January 1, 2001, a county with a population of 1,200,000 or more persons according to the most recent United States decennial census and any portion of a county, except Pinal County, contained in area A; and~~
 - b. ~~From and after December 31, 2000, a county with a population of 1,200,000 or more persons according to the most recent United States decennial census and any portion of a county contained in area A.~~
- 9. No change
 - 10. No change
 - 11. No change
 - 12. No change
 - 13. No change
 - 14. No change
 - 15. No change
 - 16. No change
 - 17. No change
 - 18. No change
 - 19. No change
 - 20. No change
 - 21. No change
 - 22. No change
 - 23. No change
 - 24. No change
 - 25. No change
 - 26. No change
 - 27. No change
 - 28. No change
 - 29. No change
 - 30. No change
 - 31. No change
 - 32. No change
 - 33. No change
 - 34. No change
 - 35. No change
 - 36. No change
 - 37. No change
 - 38. No change
 - 39. No change
 - 40. No change
 - 41. No change
 - 42. No change
 - 43. No change
 - 44. No change
 - 45. No change
 - 46. No change
 - 47. No change
 - 48. No change
 - 49. No change
 - 50. No change
 - 51. No change
 - 52. "Type 2 gasoline" means a gasoline that meets the standards contained in Table 2, or is certified using the PM according to the requirements of R20-2-751(F), (G), and (H), and:
 - a. ~~Meets the requirements in R20-2-751(A) from and after May 1, 1999, through October 31, 2000, and from the period beginning April 1 through October 31 of each subsequent year; and~~

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- b. Meets the requirements in R20-2-751(B) from and after ~~November 1, 2000, through March 31, 2001, and from the period from and after~~ November 1 through March 31 of each ~~subsequent~~ year.

53. No change

R20-2-751. Arizona CBG Requirements

- A. General requirements. In addition to the other requirements of this Article and except as provided in subsection (B), all Arizona CBG shall meet the following requirements. The dates in this subsection are compliance dates for service station operators and fleet owners.

Fuel Property/Performance Standard

Limits

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|
| 1. Sulfur | 500 ppm by weight (max) |
| 2. Aromatics | 50% by volume, (max) |
| 3. Olefins | 25% by volume (max) |
| 4. E200 | 70-30% volume |
| 5. E300 | 100-70% volume |
| 6. Maximum Vapor Pressure | |
| a. October 1 - March 31 | 9.0 pounds per square inch (psi) |
| b. April | 10.0 psi |
| c. May | 9.0 psi |
| d. June 1 - September 30 | 7.0 psi |
| 7. Oxygen and Oxygenates | |
| a. Minimum Content: | |
| i. November 1 - March 31 | 10% ethanol by volume |
| <u>If A.R.S. § 41-2124(E) petition in effect,</u> | 2.7% oxygen by weight
(other than ethanol) |
| ii. April 1 - October 31 | 0% by weight (any oxygenate) |
| b. The maximum oxygen content shall not exceed 4.0% by weight for ethanol and 3.5% by weight for other oxygenates, and shall comply with the requirements of A.R.S. § 41-2123. | |
| 8. Federal Complex Model VOC Emissions Reduction Percentage | |
| May 1 through September 15 | ≥ 25.0% (Federal Complex Model settings: Summer, Area Class B, Phase 2) |

- B. Wintertime requirements. In addition to the other requirements of this Article, from and after November 1, ~~2000 through March 31, 2001, and from the period beginning November 2~~ through March 31 of each ~~subsequent~~ year, all Arizona CBG shall meet the following requirements. The dates in this subsection are compliance dates for service station operators and fleet owners.

Fuel Property

Limits

- | | |
|---------------------------------------|------------------------------------------------------------------------------------|
| 1. Sulfur | 80 ppm by weight (max) |
| 2. Aromatics | 30% by volume (max) |
| 3. Olefins | 10% by volume (max) |
| 4. 90% Distillation Temperature (T90) | 330 degrees Fahrenheit (°F) (max) |
| 5. 50% Distillation Temperature (T50) | 220°F (max) |
| 6. Vapor Pressure | 9.0 pounds per square inch (psi) (max) |
| 7. Oxygenate - Ethanol | |
| a. Minimum oxygenate content | 10% ethanol by volume |
| b. Maximum oxygen content | 4.0% oxygen by weight, and shall comply with the requirements of A.R.S. § 41-2123. |

c. Alternative oxygenates may be used if approved by the Director under A.R.S. § 41-2124(D).

- C. General Elections. Except as provided in subsection (D), all registered suppliers shall make an initial election, and subsequent elections if a change occurs, before the beginning of transport of the Arizona CBG or AZRBOB. Registered suppliers shall make the election with the Director on a form or in a format prescribed by the Director. The election shall state:

- Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply Arizona CBG or AZRBOB that complies with Type 1, Type 2, or the PM alternative gasoline formulation requirements; and
- For each applicable fuel property or performance standard for the election in subsection (C)(1), whether the Arizona CBG or AZRBOB will comply with the average standards or per gallon standards. A registered supplier shall not elect to comply with average standards unless the registered supplier is in compliance with R20-2-760. ~~From and after September 15, 2000, a~~ registered supplier shall not elect to comply with Type 1 average standards in Table 1, columns B and C, from September 16 through November 1 and April 1 through April 30.

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- D. Winter elections. From and after November 1, ~~2000, through March 31, 2001, and from the period beginning November 2~~ through March 31 of each ~~subsequent~~ year, all Arizona CBG or AZRBOB shall comply with Type 2 gasoline requirements or the PM alternative gasoline formulation requirements under Table 2. All registered suppliers shall make an initial election, and subsequent elections if a change occurs, before the beginning of transport of the Arizona CBG or AZRBOB. Registered suppliers shall make the election with the Director on a form or in a format prescribed by the Director. The election shall state:
1. Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply Arizona CBG or AZRBOB that complies with the Type 2 gasoline or the PM alternative gasoline formulation requirements; and
 2. For each applicable fuel property, whether the Arizona CBG or AZRBOB will comply with the average standards or per gallon standards.
- E. No change
F. No change
G. No change
H. No change
I. Offsetting Fuel Properties and Performance Standards. Each registered supplier who elects to comply with the averaging standards for any of the fuel properties or performance standards contained in Tables 1 or 2, or the PM, shall complete physical transfer from the same production or import facility of certified Arizona CBG or AZRBOB in sufficient quantity to offset the amount by which the gasoline exceeds the averaging standard according to the following schedule:
1. Registered suppliers electing averaging standards contained in Table 2 or the PM shall offset each exceeded average standard within 90 days before or after the beginning of transport of any final blend of Arizona CBG or AZRBOB from a production or import facility;
 2. Registered suppliers electing to comply with the averaging standard for the VOC Emission Reduction Percentage in Table 1, column B, shall offset an exceedance of the standards that occurs from May 1 to September 15 of each calendar year during that same time period; and
 3. Registered suppliers electing to comply with the averaging standard for the NOx Emission Reduction Percentage contained in Table 1, column B, shall offset an exceedance of the summer standard that occurs from May 1 to September 15 of each calendar year during that same time period; and
 4. ~~Registered suppliers electing to comply with the averaging standard for the NOx Emission Reduction Percentage contained in Table 1, column B, shall offset an exceedance of the winter standard that occurs from September 16, 1999 to April 30, 2000, during that same time period.~~
- J. No change
K. No change
L. No change
M. No change
N. No change
O. No change

R20-2-759. Testing Methodologies

- A. No change
B. No change
C. A registered supplier, oxygenate blender, or 3rd-party terminal certifying Arizona CBG or AZRBOB before transport to the CBG covered area shall measure oxygenate using ASTM D4815-94a procedures and RVP using ASTM D4814-~~99~~ standards. For Arizona CBG located in the CBG covered area, oxygenate shall be measured using ASTM D4815-94a and RVP shall be measured using ASTM ~~D5191-96~~D5191-99. ASTM D4814-99, ASTM D4815-94a and ASTM D5191-96~~D5191-99~~ are incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. Copies may be obtained at American Society For Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.
D. No change

R20-2-760. Compliance Surveys

- A. A registered supplier who elects to certify that Arizona CBG or AZRBOB meets any averaging standard under R20-2-751 shall conduct compliance surveys in accordance with a survey program plan approved by the Director. The Director shall approve a survey program plan meeting the following criteria:
1. The survey program shall consist of:
 - a. ~~Four~~ VOC and NOx surveys during the period May 1 through September 15 of each year; and
 - b. ~~Two NOx surveys during the period of November 1, 1999, through March 31, 2000, which constitute a survey series.~~
 2. The survey program shall comply with subsection (B).

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3. If a registered supplier fails to conduct an approved survey program, the Director shall issue an order requiring compliance with all applicable standards on a per-gallon basis for a period of at least 6 months, extending through the end of the survey period identified in subsection (A)(1) and ending after the 6-month period. The requirement for compliance with per-gallon standards shall apply from the beginning of the survey period for which the failure occurs, regardless of when the failure to survey occurs during that period.

B. No change

C. No change

D. No change

E. Each survey program shall:

1. No change

2. No change

3. No change

4. Require the surveyor to submit a report of each survey, within 30 days following completion of the survey, to the Director. The report shall include:

a. The name of the person conducting the survey;

b. An attestation by an officer of the surveying company that the survey was conducted according to the survey program plan and the survey results are accurate;

c. If the survey was conducted for 1 registered supplier, the identification of that supplier;

d. The identification of the area from which gasoline samples were selected;

e. The dates on which the survey was conducted;

f. The address of each facility at which a gasoline sample was collected, and the date of collection;

g. The results of the analyses of samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and RVP, the calculated VOC or NO_x emissions reduction percentage, as applicable, for each survey conducted during the ~~periods~~ period identified in subsection (A)(1).

h. The name and address of each laboratory where gasoline samples were analyzed;

i. A description of the methodology used to select the locations for sample collection and the numbers of samples collected;

j. For any samples that were excluded from the survey, a justification for the exclusion; and

k. ~~For each survey conducted during the period June 1 through September 15, the The average VOC and NO_x emissions reduction percentage, and the average NO_x emissions reduction percentage for samples collected during the period November 1, 1999 through March 31, 2000.~~

F. No change

G. No change

H. No change

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Table 1. Type 1 Gasoline Standards

	Non-averaging Option	Averaging Option		
	A	B	C	D
Performance Standard/Fuel Property**	Per Gallon (minimum)	Average	Minimum (per gallon)	Maximum (per gallon)
VOC Emission Reduction (%) May 1 - Sept. 15	≥27.5	≥29.0	≥25.0	N/A
NOx Emission Reduction (%) May 1 - Sept. 15	≥5.5	≥6.8	N/A	N/A
NOx Emission Reduction (%) Sept. 16, 1999 - April 30, 2000	≥0.0	≥1.5	N/A	N/A
From and after September 15, 2000: September 16 - November 1 and April 1 - April 30***	≥0.0	N/A	N/A	N/A
Oxygen content: ethanol, (% by weight unless otherwise noted) Nov. 1- March 31*** April 1 - Oct. 31	10% ethanol by vol. N/A 2.0 0.0*	N/A 2.1 N/A	10% ethanol by vol. N/A 1.5 0.0	4.0 N/A 4.0
Oxygen content: other than ethanol, (% by weight) Nov. 1- March 31*** April 1 - Oct. 31	2.7 N/A 2.0 0.0	N/A 2.1 N/A	2.7 N/A 1.5 0.0	3.5* N/A 2.7
* Maximum oxygen content must comply with the EPA oxygenate waiver requirements. ** Dates represent compliance dates for service stations and fleet owners. *** From and after November 1, 2000, registered Registered suppliers shall certify all Arizona CBG as Type 2 gasoline meeting the standards in Table 2 during the time period of November 2 through March 31.				

Table 2. Type 2 Gasoline Standards

	Averaging Option		Non-averaging Option	
	A	B	C	
Fuel Property	Maximum Standard (per gallon)	Averaging Standard*	Flat Standard* (per gallon maximum)	Units of Standard
Sulfur Content	80	30	40	Parts per million by weight
Olefin Content	10.0	4.0	6.0	% by volume
90% Distillation Temperature (T90)	330	290	300	Degrees Fahrenheit
50% Distillation Temperature (T50)	220	200	210	Degrees Fahrenheit
Aromatic Hydrocarbon Content	30.0	22.0	25.0	% by volume
Oxygen content: ethanol**** Nov 1- Mar 31 April 1 - Oct 31	10% ethanol 2.7	-- --	10% ethanol 2.7 *** **	% by vol. % by weight

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Oxygen content: other than ethanol**** Nov 1- Mar 31 April 1 - Oct 31	$\frac{3.5^{**}***}{2.7}$	-- --	$\frac{3.5^{**}***}{2.7^{***}**}$	% by weight % by weight
<p>* Instead of the standards in columns B and C, a registered supplier may opt to comply with the standards contained in column A, and R20-2-751(F),(G), and (H) for the use of the PM.</p> <p>** Maximum oxygen content shall comply with the EPA oxygenate waiver requirements.</p> <p>*** The gasoline produced in accordance with the Non-averaging Option must comply with a per gallon minimum oxygen content of 1.8% by weight April 1 - October 31. Non-ethanol oxygenate allowed only if approved by the Director under A.R.S. § 41-2124(D). Maximum oxygen content shall comply with the EPA oxygenate waiver requirements.</p> <p>**** From and after October 31, 2000, a A registered supplier shall certify all Arizona CBG using ethanol as the oxygenate during the time period of November 2 through March 31. Alternative oxygenates may be used if approved by the Director under A.R.S. § 41-2124(D).</p> <p>NOTE: Dates represent compliance dates for service stations and fleet owners.</p>				